

# A learned

## *commendation of the politike*

lawes of Englande: vvherin by moſte

pitthy reaſons & euident demonſtrations they are  
plainelye proued farre to excell aſwell the Civile  
lawes of the Emperie, as alſo all other lawes of  
the world, with a large diſcourſe of the difference  
betwene the. ii. gouernements of kingdomes;

whereof the one is onely regall, and the  
other conſiſteth of regall and po-  
litique adminiſtration  
comioyned.

Written in latine aboue an hundred years  
reſpaſt, by the learned and right hono-  
rable maſter Fordeſcye knight, lord

Chauuncellour of England in tyme  
of Kinge Henry the. vi. And  
newly tranſlated into En-  
gliſhe by Robert  
Mulcaſter.

(..)



*Pio lectori.*



Stius non minus pij, quā eruditi opusculi exemplar, nactus: quū antiquitatem venerandam, vna cum eruditione ac pietate coniunxerim: Non potui optime lector, aut patrie tam ingratus, aut antiquitatis tam inofficiosus cultor esse, vt te illius lectione diutius fraudarem. Continet enim in se (vt cetera taceam) politicarum et ciuiliū nostre Anglie legum, quibus preclara et florentissima hec respublica sub illustrissimo et nūquam satis laudato principe nostro Rege Henrico octauo, eiusq; progenitoribus regibus Anglie hactenus felicissime fuerit erecta, instituta, & gubernata, doctissimum encomion. Vnde easdem nostras leges, non solum romanorum Cesarum, sed et omnium aliarum nationum constitutiones, multis parasangis, prudentia iustitia & equitate precellere, facile prespicias. Eme ergo, lege, et fruiere, ac labores nostros boni consule.

Vale.

To the right woorshipfull

Ihon VValshe, Esquier, one of the

Queene her learned Iusticers of her  
highnes Court of Cominenplees.

Robert Mulcaster wisbeth  
long lyfe and healih.



I happened mee of late, (right woorshipfull sye) to light vpon this little Treatise, whiche I incontinent desired to renne ouer, because yt semed to discourse vpon some pointes of the lawes of our Countrey, wherof I my selfe then was & nowe am a Student. When I had ouer runne it, my desire to read it, became nothing counteruailable with the gladnes that I hadde reade it, for my desire to reade it came vpon hope, to fynd some profitable lessons for my study, but my gladnes after reading sprang of y excellency of thargumēt, wher on I did not dreame, neither to fynd so riche a Treasure in so simple an habite. And because I wished all menne to haue parte of my delight, me thought it good to translate it into Englishe forth of Latine, inwhiche tounge it was fyrste written.

A.ii.

The



dedicatorie.

The aucthour of the book was one maister  
Forcescue knight Seriaunt at the law, and  
for his Skill and vertues preferred by kinge  
Henry the. vi. to be Chauncellour of this re-  
alme. The entrie of the booke it selfe shew-  
eth where, and vppon what occasion it  
was witten. It was witten in Berry in  
Fraunce, where Prince Edwarde sonne to  
Henry the vi. after ward slaine at Tewkes-  
bury by Edward the. iiii. dyd then remayne  
with his mother Queene Margaret in the  
house of Renate her father duke of Anjou  
and king of Sicile, during the tyme that Ed-  
ward the fourth reigned in this Realme and  
Henry the. vi. was fledd into Scotland. The  
occasion was this: The Chauncellour being  
fledde into Fraunce with the yong Prince &  
perceiuing his delight to be all bent to Chy-  
ualrye as a thing of greatest neede consyde-  
ring he ment by force the restitution of his fa-  
ther, and thereby his owne, to the kingdome  
of England, tooke occasion (for that his hope  
was to see the Prince reigne heare) to moue  
him to a diuision of his affaires, & as he ar-  
med him selfe against his enemy, so to adourne  
him selfe againste his being kinge with skill

of  
of  
of



## The Epistle

of lawes, whiche doe p̄serue eche state so in  
peace that it maye if neede be, warre, and so  
garde it in warre, that it may haue peace in  
eie. Whargument is this, that the skill of the  
Countrie lawes is neadefull for the Prince,  
althoughe not so deepe as the purposed pro-  
fessours, yet so full as to their honour may  
ought to fall in Princes. And for that the  
Prince should thinke y thing to be a Princely  
knowledge, he taketh occasiō by comparing  
the gouernement of this Realme w̄ others,  
and the lawes of this lande with the Ciuill,  
with whome it is of all men lightly compa-  
red and the betternesse of poyntes wherein  
they bothe trauayle, and p̄ouisions by the  
one wiselyer forseene then by the other, to  
proue the singularitie of this state whiche it  
behoued the Prince to learne seying hee was  
lyke to succeade hys father, and to vnderstā  
the lawes, whiche maketh the state to bee so  
singular. The particulars I referre to the  
booke, wherof thus much I doe and no lesse  
coude well saye. Why I dyd choose your  
woorship to be protectour of my laboures, I  
shall not needs tediously to touche, it shalbe  
suffycient to saye that in choise of manye, I

A.iii.

picked

dedicatorie.

pycked you alone, not doubting your lyking  
in allosynge seeing myne election in dedye  
calynge and so commyttinge to thal  
mightye the good pzelernacion of  
your worshop I humblye  
take my leaue, this  
xlii. of October

(..)

*Robert Mulcaster.*



*The introduction into the matter. 3*

**D**uring y<sup>e</sup> cru  
ell rage of y<sup>e</sup>  
late mortall  
warres w<sup>th</sup>  
the royalme  
of Englāde, whē the most  
vertuous and godly king  
Henry the sixt w<sup>th</sup> Queene  
Margaret his wife y<sup>e</sup> kigs  
daughter of Iherusalem  
and Scicile, & their onely  
sonne Edward prince of  
Wales were forced to fly  
the land: & the kig himself  
afterward in the same ci-  
uil tumult falling into the  
bloody hands of his deadly  
enemies his owne subiects  
was of them comitted to  
prisō, wher he a lōg tyme  
remained in strait capti-  
uitie, the queene & y<sup>e</sup> price  
her sonne thus banished  
out of their countrey, ma-  
king their abode in y<sup>e</sup> du-  
chy of Berry, a dominion  
of y<sup>e</sup> foresaid kig of Jerus.

**S** Euiēte dudū  
in regno An-  
glie nephan-  
dissima rabie  
illa, qua piissimus  
ibidem rex H. sex-  
tus, cum Marga-  
reta Regina con-  
sorte sua, filia re-  
gis Iherusalem et  
Scicilie, ac eorum  
vnigenito Edwar-  
do principe Wal-  
lie inde propulsi  
sūt, sub qua et de-  
mum rex ipse. H.  
a subditis suis de-  
prehēsus, carceris  
diutinū passus est  
horrorem, dū re-  
gina ipsa cum so-  
bole, patria sic ex-  
torrens, in ducatu  
Berren<sup>i</sup> predicti  
Regis Iherusalem  
dñio morabātur.  
Princeps

A. llll.



## Fortescue, in commendacion

Princeps ille mox  
ut factus est adul-  
tus, militari totum  
se contulit discipli-  
næ, et sepe feroci-  
bus et quasi indo-  
mitis insedens ca-  
ballis, eos calcari-  
bus. vrgens, quan-  
doq; lancea, quan-  
doq; mucrone, aliis  
quoq; instrumen-  
tis bellicis, sodales  
suos iuuenes, sibi  
seruientes, bellan-  
tiū more inuadere  
ferireq; iuxta mar-  
tis gymnasiū, rudi-  
menta, delectaba-  
tur. Quod cernens  
miles quidam gran-  
dæuus, predicti re-  
gis Angliæ Cancel-  
larius, qui etiam ibi  
dem sub hac clade  
exulabat: Principē  
sic affatur.

.iii.2

The Prince shortly af-  
ter growing to mannes  
state, applied him selfe  
wholy to the seates of ar-  
mes, muche delytinge to  
ryde vpon wilde and un-  
broken horses, not spa-  
ring w<sup>th</sup> spurres to break  
their fierceness. He prac-  
tyced also sometymes w<sup>th</sup>  
the pyke, sometimes w<sup>th</sup> y<sup>e</sup>  
swoorde, & other warlyke  
weapons after the ma-  
ner & guyse of warriours  
accordinge to the vse of  
martial discipline, to as-  
saile & strike his compa-  
niōs, I mean y<sup>e</sup> yong mē  
y<sup>e</sup> attended vpon hys pson.  
Which thing whē a cer-  
tein aūciēt knight, being  
chaūcellour to y<sup>e</sup> forsaide  
king of Englād saw, who  
also in y<sup>e</sup> miserable tyme  
did there remain in exile,  
hee spake thus to y<sup>e</sup> prince.  
First

¶ First he moueth the Prince to the knowledge  
of the lawe. Chap. I,

Y Our singuler towarde-  
nes most gracious p<sup>ri</sup>nce,  
maketh me right gladde,  
when I beholde how er-  
nestlye you dooe embrace  
marttiall feates. For it is  
conueniēt for youre grace  
to be thus del<sup>y</sup>ted, not on-  
lye for that you are a soul  
dyour, but muche rather  
for that you shalbe a k<sup>ig</sup>.  
For yt is the offyce and  
dutyē of a kyng to fight  
the batailles of his people,  
and also rightlye to iudge  
them, as in the viii. chapt-  
ter of the firste booke of  
Kinges you are plainelye  
taught. Wherefore I wo-  
uld wish your grace to be  
w<sup>as</sup> earnest zeal geuē to y<sup>e</sup>  
studie of y<sup>e</sup> law; as you ar  
to y<sup>e</sup> knowledge of arms,

Gaudeo vero se-  
renissime Prin-  
ceps super nobi-  
lissima indole tua:  
videns quanta a-  
uiditate militares  
tu amplecteris ac-  
tus, conuenit naq;  
tibi taliter delec-  
tari, nedum quia  
miles es, sed am-  
plius quia rex fu-  
turus es. Regis  
nepe officiū pug-  
nare est bella po-  
puli sui, et eos re-  
ctissime iudicare,  
vt primo regum  
cap. viii. clarissime  
tu doceris. Quare  
vt armorum, vti-  
nam et legum stu-  
diis, simili zelo te  
deditū cōtēplarer  
cum



## Fortescue, in commendacion

Cum vt armis bella, ita legibus iudicia peragantur que Iustinianus Augustus equissima librante mente in initio prohemii libri sui institutionum ait. Imperatoria maiestatem non solum armis decoratam, sed et legibus oportet esse armatam, vt vtrumque tempus bellorum et pacis recte possit gubernari. Tñ vt ad legum studia feruide tu aheles, Maximus legis lator ille Moyse olim Synagoge dux multo forcior Cefare te iuitat

because that like as warres by force of chivalrye are ended, euen so iudgements by the lawes are determined. Which thing Iustinian the Emperour well and wisely and aduisedly pondering, in the beginninge of the preface of his booke saith thus. It becometh the emperiall maiesty not onli to be garded with armes, but also to be armed with lawes, to the end y he mai be able rightly to crecute y gouerne it of bothe times, as well of warre as of peace. Nowe be it for youre more earnest endeuor to the study of the law, the exhortation of the chiefest lawmaker Moyses, sometyme captaine of the Synagoge ought to be of much more force with you, then the wordes



woordes of Iustinian, dum regibus Is-  
 wheras in the xvii. chapt. rael diuina auto-  
 ter of the book of Deute- ritate ipse preci-  
 ronomie hee doothe by piat, eorum leges  
 the auctorite of god strait- legere omnibus  
 ly charge the kinges of diebus vite sue,  
 Israell to be readers of y sic dicens: Post-  
 laue al the dayes of theire quam federit rex  
 lyfe sayeng thus. When in folio regni sui  
 the kyng shall sitte vppon describet sibi Deu-  
 the princeipe seate of hys teronomij Le-  
 kingdome, hee shall write ges in volumine,  
 him out thys laue in a accipiens exēplar  
 booke, takynge the cōpye a sacerdotibus Le-  
 thereof of the priestes the uitice tribus, & ha-  
 Leuites: and he shal haue bebit secū legetq;  
 it with him, and hee shall illud omnibus di-  
 read it al the dayes of hys ebus vite sue, vt  
 life, that he may learne to discat timere dñm  
 feare the lord his god, & deū suū, & custo-  
 to keepe his commaunde- dire verba & cere-  
 mentes and ordinaunces monias eius que  
 wrytten in this laue. in lege scripta sūt.  
 And Helynandus expō- Deutero. ca. xvij.  
 dyng the same saith thus. quod exponens  
 Helynādus dicit.

Princeps

**Fortescue, in commendacion**  
**Princeps ergo nō** A Prince therefore must  
**debet iuris igna-** not be ignorant of y<sup>e</sup> law,  
**rus esse, nec pre-** neither is it tollerable y<sup>e</sup>  
**textu militiæ legē** hee vnder the pretence of  
**permittitur igno-** warrefare shoulde be vn-  
**rare. Et post pau-** skilfull in the lawe. And  
**ca, a sacerdotibus** a littel after he is comaū-  
**Leuitice tribus, af-** ded, sayeth hee, to receyue  
**sumere iubetur ex** the copppe of the lawe of  
**emplar legis, id** the priestes the Leuites,  
**est a viris catho-** that is to saye, of catholik  
**licis et litteratis.** and learned men. Thus  
**Hec ille: Liber** muche he: For the booke  
**quippe Deute. est** of Deuteronomie is the  
**liber legum, qui-** booke of the lawes, wher  
**bus Reges Israell** with the kynges of Isra-  
**subditum sibi po-** ell were bounde to rule  
**pulum regere te-** and gouerne theyre Sub-  
**nebantur. Hunc** iectes. Thys booke doth  
**librum legere, iu-** Moyses commaunde kin-  
**bet Moyfes Re-** ges too reade, that they  
**ges, vt discant ti-** may learne to feare God,  
**mere deū & cus-** and keepe his commaun-  
**todire mandata** dementes, which are wri-  
**eius quæ in lege** ten in the lawe.  
**scripta sunt.**

Behold



of the lawes of England. Fo. 6

Beholde the effecte of the  
lawe is to feare God.

Wherunto man cannot  
attayne, onelesse he firste  
knowe the will of God,  
whiche is witten in the  
lawe. For the principall  
poynte of all seruyce is to  
knowe the wyll and plea  
sure of the lord or maister  
to whome seruyce ys due.  
Howbest the lawmaker  
Moyse first i this charge  
mencioneth the effecte of  
the lawe, that is the feare  
of God: and nexte he allu  
reth vs to the keepinge of  
the cause thereof, that is  
to saye, of Goddes com  
maundementes. For in  
the mynde and intent of  
the exhorter the effect go  
ethe before the cause.

But what feare is thys  
whych the lawes do pro  
pon to obseruer therof?

Ecce timere deū  
effectus est legis,  
quem non consc  
qui valet homo,  
nisi prius sciat vo  
luntatem dei, quę  
in lege scripta est.  
Nam principium  
omnis famulatus,  
est scire volunta  
tem dñi cui serui  
tur. Legis tñ lator  
Moyse, primò in  
hoc edicto effec  
tum legis videli  
cet timorem Dei,  
cōmemorat. De  
inde ad custodiā  
causę eius videli  
cet mandatorum  
dei ipse inuitat.  
Nā effectus prior  
est quā causa, in a  
nimo exhortātis.  
Sed quis est timor  
iste, quem pro  
mittunt leges ob  
seruatoribus suis?

verò



Fortescue in commendacion

vere non ē timor  
ille de quo scribi-  
tur : Quod per-  
fecta caritas fo-  
ras mittit timo-  
rem . Timor ta-  
men ille licet ser-  
uilis , sepe ad le-  
gendum leges ,  
reges concitat ,  
sed non est ipse  
proles legis . Ti-  
mor vero de quo  
hic loquitur Moi-  
ses , quem et pari-  
unt leges , est ille  
de quo dicit pro-  
pheta : Timor do-  
mini sanctus per-  
manet in secu-  
lum seculi . Hic  
filialis est et non  
nouit penam , vt  
ille qui per chari-  
tatem expellitur .  
Nam iste a legi-  
bus proficiscitur ,

Surely it is not that fear,  
wherof it is witten, that  
perfect charitis or loue ex-  
pellethe feare . Yet thys  
same feare, though it bee  
bond & seruile, oftentimes  
prouoketh kinges to the  
reading of the lawes: but  
it procedeth not out of the  
law. But that feare wher  
of Moyses here speaketh,  
whiche also procedeth out  
of the lawes is the selfe  
same feare , that the pro-  
phet speaketh of saynge.  
The feare of the lord is  
holy, & endureth for euer &  
euer. This is such a louig  
feare as natural childzen  
beare to their deare parēt;  
commonly termed the re-  
uerence of y child toward  
his parents, Whereunto  
there is no punishment  
due, as a thinge wrought  
by loue. For this feare pro-  
ceedeth out of the lawes,

of the lawes of England. Fo. 7

which teach to do the wil  
of god, so that it deserueth  
no punishment. But the  
gloze of the Lorde is vpon  
them that feare hym,  
and he doth glorify them.  
Yea thys feare is euen  
that same feare, whereof  
Job after that he had dy-  
uerslye searched for wise-  
dome, sayeth thus. Bee-  
holde the feare of the lord  
is perfecte wisdom, and  
to forsake euill is vnder-  
standinge. That the for-  
sakinge of euill is the vn-  
derstandinge of the feare  
of god, this do the lawes  
teache, whereby it folow-  
eth that the same fear pro-  
cedeth out of them.

que docēt facere  
volūtātē dei, quo  
ipse penā nō me-  
retur. Sed gloria  
dñi est super me-  
tuentes eū, quos  
et ipse glorificat.  
Timor autē iste,  
timor ille est, de  
quo Iob postquā  
multifarie sapiē-  
tiā inuestigat sic  
ait. Ecce timor do-  
mini ipsa est sapi-  
entia, & recedere  
a malo, intelligen-  
tia. Iob ca. xxviii.  
Recedere a malo  
quod intelligētia  
timoris dei est, le-  
ges docent quo &  
timorē hunc ipse  
parturiunt.

The Princes replie to the Chann-  
cellours motion, Chap. 2.

Hec



Fortescue, in commendacion

**H**Ec vt audiuit  
princeps, erec-  
to in senem vultu  
sic locutus est.  
Scio Cancellarie  
quod liber Deut.  
quem tu comme-  
moras, sacræ scrip-  
turæ volumē est:  
leges quoq; & ce-  
rimoniarū in eo cō-  
scriptæ, etiam sa-  
cræ sūt a dño edi-  
tæ; & per Moysen  
promulgatæ; qua-  
re eas legere sacræ  
cōtēplacionis dul-  
cedo est. Sed lex  
ad cuius scienciā  
me inuitas, huma-  
na est ab hoībus  
ædita, tractans &  
terrena: quo licet  
Moyses ad Deut.  
lecturam, reges Is-  
rael astrinxerit, eū  
per hoc reges ali-

**T**he Prince hearynge  
this, and stedfastly be-  
holding y old man, spake  
thus to him. I know good  
Chauncelloure that the  
booke of Deutonomie  
whereof you speake is a  
booke of holpe scripture.  
The lawes also and ordi-  
nances therein contained  
are holy, of the lordes ma-  
kinge, and published by  
Moyses. Wherefore the  
readinge of them is a ple-  
sant act of holpe contem-  
placion. But that law, to  
the knowledg whereof  
you counsell me, is hu-  
mayne, made by menne,  
and intreating of world-  
lye matters: Wherefore  
though Moyses bynde the  
kinges of Israell to the  
readyng of goddes law,  
yet that thereby hee for-  
cethe all other kynges  
to

of the lawes of Englande For  
 to do the like in their own  
 lawes, that stande the by  
 no good reason, seeynge  
 that of both the readings  
 the cause is not like.

os ad cōsiliū er fa-  
 ciendū in suis legi-  
 bus cōcitatse ōnē  
 effugit rationē, cū  
 vtriusq; lectur' nō  
 sit eadem causa.

¶ Here the Chauncelour Fortifieth his assertion

Cap. 3.

I perceave (of the Chaū-  
 cellour) by your aun-  
 swere most worthy pꝛince  
 howe earnestly you have  
 considered & weighed the  
 qualitie of my exhortaciō.  
 So that heareby you doe  
 much encourage me both  
 more plainly, more large-  
 ly & also more deepely to  
 discourse y<sup>e</sup> same. Wher-  
 fore you shal vnderstande  
 that not only gods lawes  
 but also mans are holye,  
 forsomuche as the lawe is  
 diffined by these wordes.  
 The lawe is a holy sanc-

AT Cācellari'.  
 Scio (inquit) p  
 hec q̄ iā dicis, prin-  
 ceps clarissim, quā-  
 ta adūtētia exhor-  
 tatiōis mee, tu pō-  
 deras qualitat' quo  
 me nō infime cōci-  
 tas sup inceptis, ne  
 dū clari', sed et p-  
 fūdi' quodamodo  
 tecū disceptare. Sci-  
 re igitur te volo,  
 quod nō solū Deu-  
 tro. leges, sed et ō-  
 nes leges humāe sa-  
 cre sūt, quō lex sub  
 his verbis diffini-  
 tur. Lex est factio



**307** For theſeue, in commendacion  
 ſancta iubēs honeſtation or decree, cōmaſiding  
 ta, et prohibēs conthings that be honeſt, and  
 traria ſanctum etcforbiddinge y contraries.  
 nim eſſe oportet, Now y thing muſt needs  
 qd' eſſe ſanctū difbe holy which by diffiniciō  
 finitum eſt. Ius etiis determined to be holpe.  
 am diſcribi perhiRight alſo by deſcription  
 betur, quod illudis called the arte of y whi-  
 eſt ars boni et equche is good & ſtreight ſo y  
 cuius merito quisin this reſpect a man may  
 nos ſacerdotes apwel cal vs *Sacerdotes*, that  
 pellat. Sacerd' eniis to ſaye, geeuers or tea-  
 quaſi ſacra dās, velchers of holy things (foz ſo  
 ſacra docēs per eby interpretation doothe  
 thimologiā dici*Sacerdos* ſignifie). For ſo  
 tur, quia vt dicuntmuſt then as the lawes  
 iura, leges ſacrę ſūtare holpe, it foloweth that  
 quō eas miniſtranthe miniſters and ſetters  
 tes et docentes ſaſurth of thē may right wel  
 cerdotes appellanbe called *Sacerdotes*, that is  
 tur, A deo etiamgeuers & teachers of holy  
 ſunt omnes legesthings. Further moze all  
 editę, quę ab homilawes publiſhed by men  
 ne pmulgātur. Nāhaue alſo theire autori-  
 cū dicat Apoſtol⁹, tie frome godde. For  
 as the Apoſtell ſayethe:  
 All

## of the lawes of Englande Fo. 2

Al power is from the lord  
god. Wherefore the la-  
wes that are made by mā  
which therunto hath re-  
ceaved power from the  
lorde, are also ordeined of  
god, as also appeareth by  
this sayng of the auctour  
of al causes: Whatsoever  
the seconde cause doth, the  
sāe dothe y first cause by a  
higher and moze excellent  
meane. Wherefore Iosa-  
phat the king of Iuda sai-  
ethe to his iudges: The  
iudgements whiche ye ex-  
ecute are the iudgements  
of god in y ninetinth chap-  
ter of the seconde booke of  
Chronicles. Therby you  
are taughte that to learne  
lawes though they be mā  
lawes, is to learne ho-  
ly lawes and the ordynā-  
ces of godde: so that the

quod omnis potes-  
tas a domino deo  
est, leges ab homi-  
ne condite, qui ad  
hoc a domino reci-  
pit potestatem, eti-  
am a deo constitu-  
untur, dicente auc-  
tore causarū: quic-  
quid facit causa se-  
cunda, facit et cau-  
sa prima, altiori et  
nobiliori modo.  
Quare. Iosaphat  
rex Iuda, ait Iudici-  
bus suis: iudicia q̄  
vos profertis, iudi-  
cia dei sunt, secun-  
do Paralipo. xix.  
cap. Ex quibus eru-  
diris quod leges  
licet humanas ad-  
discere, ē addiscere  
leges sacras et edi-  
tiones dei, quo earū  
studiunt

B. ff.



## Fortescue, in commendacion

Studiū nō vacat a  
dulcedine cōsolati  
onis scē. Nec tamē  
vt tu coniicis, dul-  
cedo hūmodi causa  
fuit cur Moyles re-  
ges Israel Deute-  
ro. legere p̄cepat.  
Nam causa hec, nō  
plus reges quā ple-  
beos, ad eius lectu-  
rā, puocat, nec pl<sup>9</sup>  
Deuter. librū quā  
alios Pētateuco li-  
bros legere, pulsat  
causa ista, cū non  
minus libri illi, quā  
Deutero, sacris a-  
būdent carismati-  
bus, in quibus me-  
ditari p̄sanctū est,  
quare nō aliā fuis-  
se causā mādati hu-  
ius, quā quia ī Deu-  
tronom̄ plus quā  
ī aliis libris veteris  
testamēti legē ise-

studie of them is not with-  
out a pleasant sweetenes  
of holy cōsolaciō. And yet  
such sweete pleasure was  
not the cause as you sup-  
pose, wherefore Moyles cō-  
maunded the kings of Is-  
rael to reade the lawes of  
Deuteronomie. For thys  
cause moueth not kynges  
no more to the reading of  
y<sup>e</sup> booke of Deuteronomie  
thenne of anye of the o-  
ther bookes of Moyles in  
which as wel as ī y<sup>e</sup> booke  
of Deuteronomie is plen-  
tiful store of godly lessons  
& holy instructiōs. Wher-  
in to be deuoutly occupied  
is a holy thing. Wherefore  
that there was non other  
cause of this commaunde-  
ment, thē for that y<sup>e</sup> lawes  
whereby the king of Isra-  
el is bound to rule his peo-  
ple, are more p̄cisely cō-  
teined

of the lawes of Englande Fo. 10

teined in y booke of Deu-  
tronomie, the in y other bo-  
kes of y old testamēt, y cir-  
cūstances of the same cō-  
maūdemēt do manifest-  
ly infourme vs. For whi-  
che cause you ought moste  
worthy p̄ince no lesse the  
the kings of Israell to bee  
moued and p̄ouoked to  
be a diligent traailer in  
the studie of those lawes,  
wherebye hereafter you  
shal rule your people. For  
that which was spoken to  
the k̄inge of Israell muste  
be vnderstande to be figu-  
ratiuely spoken to euery  
k̄inge hauinge dominion  
ouer godly people. And ha-  
ue I not then wel and hol-  
somelye propounded vnto  
you the commaūdemēt  
geuen to the kynges of  
Israell concernynge the  
learnynge of theire lawe?

runtur, quibus rex  
Israel ppl̄m rege-  
re obnoxius est, e-  
iusdē mandati cir-  
cūstantiē manifes-  
te nos informant.  
Quo et te princeps  
eadē causa, nō mi-  
nus quā reges Isra-  
el exhortatur vt le-  
gum, quibus popu-  
lum in futurum re-  
ges, tu sis solers in-  
dagator. Nā quod  
Regi Israel dictū  
est, omni Regi po-  
puli videntis de-  
um, ticipē dictum  
fuisse intelligen-  
dum est, an tunc  
non conuenien-  
ter vtiliterque pro-  
posui tibi manda-  
tum Regibus Is-  
rael latū de eorū  
lege addiscenda?

B. iii. Dum



## Fortescuē, in commendacion

**D**um nedum eius  
exemplū, sed et e-  
ius auctoritas figu-  
ralis te erudiuit et  
obligauit, ad consi-  
militer faciendum  
de legibus regni,  
quod annuēte do-  
mino, hereditatu-  
rus es.

**F**orasmuche as not onely  
his example, but also his  
like autoritie hath taught  
you the like dooinge in the la-  
wes of the kyngedome,  
whiche god willinge you  
shall inherit.

*¶ Here the Chauncelour proueth that a prince by  
the lawes may be made happy and blessed. Cap. 4.*

**N**on solū vt de  
ū timeas, quo  
et sapiēs eris, prin-  
ceps colendissime,  
vocāt te leges, cū  
p̄pheta dicēte. Ve-  
nite filiū, audite me  
timorē dñi docebo  
vos: Sed etiā vt fe-  
licitatē, beatitudi-  
nēq;,) p̄ vt in hac  
vita nācisci poter  
adipiscaris, ipse le-  
ges ad earum disci-  
plinatū te inuitāt.

**N**ot onely to the intent  
you should feare god  
& so beecome wise, do y<sup>e</sup> la-  
wes w<sup>ch</sup> y<sup>e</sup> p̄phet call you  
sayng: Come child: & hea-  
re me I will teache you y<sup>e</sup>  
feare of the lord: but also  
that you may aspyre vnto  
felicitie and blessednes (as  
farre fowrthe as in this li-  
fe theye maye bee attē-  
ned) do the lawes wyll  
you moste gracious prince  
to bee studious of them

For all the philosophers which haue so diuersly reasoned of felicitie, haue all agreed together in this one point, that felicitie or blessednes is the ende of all mans desire: and therefore they call it chief goodnes. Howbeit the peripatetiks placed it in vertue, the Stoikes in honestie, & the Epicures in pleasure. But seeing the Stoikes defined honestie to be that whiche is wel & laudably done with the vertue, and the Epicures helde nothing to be pleasant without vertue, therefore all these sectes, as saith the Leonarde Arretine in his Introduction to morall Philosophie agreed in this, that it is onely vertue that causeth felicitie.

Philosophi namque omnes qui de felicitate tam variè disputabāt, in hoc vno cōuenerūt: vtz qd; felicitas siue beatitudo finis ē ōnis humani appetit⁹: quare et ip̄a sūmū bonū appellāt: Peripatetici tñ cōstituebāt eā in virtute: Stoici in honesto: Et Epicurei in voluptate. Sed quia Stoici honestū diffiniebant esse qd' bene sit et laudabilit' ex virtute, et Epicur⁹ asseriebāt nihil esse voluptuosū sine virtut': Omnes secte illę, vt dicit Leonard⁹ Arretin⁹ Ysaagogico moralis discipline, in hoc concordarunt, qd' sola virtus est, quę felicitatē operatur



11.04 Fortescue, in commendacion

Quo et Philoso-  
ph<sup>9</sup> in vii. polit<sup>9</sup> (fe-  
licitatē definiēs) di-  
cit, quod ipsa est p-  
fect<sup>9</sup> vs<sup>9</sup> virtutū.  
His iā p<sup>9</sup>suppositis,  
cōsiderare te volo  
etiā ea q̄ sequētur.  
Leges humāe nō a-  
liud sūt quā regul<sup>9</sup>  
quib<sup>9</sup> p<sup>9</sup>fectē iustici-  
edocetur. Iusticia  
vero quā leges re-  
uelāt, nō est illa q̄  
cōmutatiua vel dis-  
tributatiua vocat.  
feu alia quā pticu-  
laris virtus, sed est  
virt<sup>9</sup> p<sup>9</sup>fecta, q̄ ius-  
tic<sup>9</sup> legal<sup>9</sup> nōine de-  
signatur. Quā Le-  
onard<sup>9</sup> p<sup>9</sup>dic<sup>9</sup> ideo  
dicite esse p<sup>9</sup>fectā, q̄a  
ōne viciū ipsa eli-  
minat, et oēm vir-  
tutē ip̄a docet quo  
et oīs virt<sup>9</sup> ip̄a me-  
rito nuncupatur.

11.04.01

11.04.02

11.04.03

Wherefore Aristotle also  
in y<sup>e</sup> seuēth booke of his po-  
litiques defining felicitie,  
saith that it is the perfect  
ble of vertues. Wh<sup>9</sup> much  
being now p<sup>9</sup>supposed I  
wold haue you to cōsider  
these things also y<sup>e</sup> folow  
Wās lawes are nothing  
els but certein rules, whe-  
reby Justice is perfectlye  
taught. But that Justyce  
which the lawes do shew  
is not the same that is cal-  
led Commutatiue or Dis-  
tributue, or any other par-  
ticular vertue, but it is a  
perfecte vertue exp<sup>9</sup>ressed  
by the name of Justice le-  
gall. Whiche the fore-  
said Leonerd dothe there-  
fore affyrme to bee per-  
fecte, beecause it excludeth  
all vice, and teachethe all  
vertue. For whiche cause  
also it is woorthelpe cal-  
led

of the lawes of Englande Fo. 12.

led by the name of al vertue. Whereof Homere saith, and likewise Aristotle in the fiftie booke of Morall philosophie, that it is y<sup>e</sup> chiefe of al vertues, and that neither Lucif<sup>r</sup> nor Hesper<sup>s</sup> are so bright & beaming as it is. Moreouer this Justice is y<sup>e</sup> thig, whereuppon al princely care dependeth and resteth: withoute the whiche the kinge can neither rightly iudge, nor yet duely fight. But thys beeing once obteyned and perfectly kept, then all the hole deuty required in a kyng is iustly perfourmed. Nowe then seeynge that the perfecte vse of vertues is felicitye, and that Justice v<sup>s</sup>ed amongest menne whyche can not bee obteyned vnto no<sup>r</sup> learned but by the

De qua Homerus dicit, si<sup>r</sup> et Philo<sup>s</sup>oph<sup>s</sup> v. ethicorū, Quod ipsa est preclarissima virtutū et nec Lucifer nec Hesper<sup>s</sup>, vt illa est admirabilis. Iusticia vero hec, subiectū est omnis regalis curę, quō fine illa Rex iuste non iudicat, nec recte pugnare potest. Illa vero adempta, pfectēq; seruata equissime peragitur o<sup>n</sup>e officium Regis. Vnde cum pfectus vsus virtutum sit felicitas, et Iusticia humana, que non nisi per legē pfecte nascitur, aut docetur, nedū



## For the cue, in commendacion

nedum sit virtutum effectus, sed et omnis virtus. Sequitur quod iustitia fruens felix per legem est quod et per eam ipse fit beatus, cum idem sit beatitudo & felicitas in hac fugaci vita cuius et per iusticiam ipse summum habet bonum tamen non nisi per gratiam lex poterit ista operari, neque legem aut virtutem sine gratia tu addiscere poteris, vel appetere. Cum ut dicit Parisi in libro suo de Cur deus homo virtus hominum appetitiva interior,

lawe, is not onelye the effecte of vertues, but is all vertue it selfe, hereof it followeth, that the practiser of Justice is by the lawe happie, and so thereby hee is made blessed, forsomuch as blessednes or happines and felicitie are bothe one in this short and transitorye lyfe, of the whiche lyfe throughe Justice hee enjoyeth the chiefe & principall goodnes. And yet the lawe is not hable to perfourme these thinges withoute the assistance of grace, withoute the whiche also you can not learn nor couet eyther lawe or vertue. For as saith Parisi. in his booke intituled *Cur deus homo* the inward vertue of man wherin his desieringe is placed is so  
thorough

throughe originall sinne  
defaced and corrupte, that  
it esteemeth vicious woꝝ  
kes foꝝ pleasaunt, & vertu  
ous woꝝkes foꝝ vnplea  
saunt. Wherefoze in that  
some men applye and en  
deuour themselves to the  
loue and folowing of ver  
tues, it procedeth of the  
bountifull goodnes of god  
and not of the power of  
man. Is ther not then spe  
cial cause why the lawes,  
whiche beinge preuented  
and accompanied wythe  
grace do performe all the  
premisses, should with all  
biligent trauaile be lear  
ned? Seinge that whoso  
hathe perfectly attayned  
thereunto, the same shall  
enioye felicitie, the ende  
& performace, as y<sup>e</sup> philo  
sophers say, of mā's desire  
by meā's wherof hee shall  
in this life be blessed, in y<sup>e</sup>

per peccatum ori  
ginale ita viciata ē  
vt sibi viciorū sua  
uia et virtutū aspe  
ra opera sapiant.  
Quare qd' aliqui  
ad amorem secta  
cionemq; virtut' se  
conferunt, diuini  
bonitatis benefici  
um est, et nō huma  
nē virtutis. Num  
tunc leges, q̄ pue  
niente & comitan  
te gratia, omnia p̄  
missa operatur, to  
to conamine addis  
cendē sunt? dum  
felicitatem quē se  
cundum Philoso  
phos, est hic fi  
nis et complemen  
tum humani desir  
derij, earum appre  
henfor obtinebit,  
quō et beatus ille  
erit in hac vita,  
eius



### Fortescue, in commendacion

eius possidēs sum-  
mum bonum. Ve-  
re etsi non hec te  
moueant, qui reg-  
num recturus es,  
moueāt te et arc-  
tabunt ad discipli-  
natum legis pro-  
phetę verba dicēt  
Erudimini qui iu-  
dicatis terram, nō  
enim ad eruditio-  
nem artis factiūq;  
aut mechanicę, hic  
mouet propheta:  
Cum non dicat,  
Erudimini qui co-  
litis terram, nec ad  
eruditionem scien-  
tię tantū theoricę,  
quamuis oportu-  
na fuerit incolis  
terrę, quia gene-  
raliter non di-  
cit erudimini qui  
inhabitis terram

et in hac parte  
non

he nowe posselleth y chief  
goodnes therof. Doubtles  
if these thinges moue you  
not, whiche shal haue the  
rule and gouernement of  
a kingdom, yet the woo-  
des of the prophet shal mo-  
ue you, yea & force you to  
the studie of the law, whi-  
che wordes be these: Be ye  
learned you y are iudges  
of the earth. Here y pphet  
exhorteth not to y learnig  
of a base arte or a handy-  
craft, so; he saith not: Be  
ye learned you y are the i-  
habiters of the earth, ney-  
ther doth he counsel to the  
learnig of knoweledge  
speculatiue, though; it bee  
not vnnecessarie for the in-  
habiters vpon the earthe.  
For he sayeth not gene-  
rally: Be ye learned you  
that dwell vpon the ear-  
the, but by these wordes,  
y in

of the lawes of Englande Fo. 14.

doth the prophet call kinges onely to the learninge of the law, wherby iudgements are executed, for so much as he specially saith Bee ye learned you y are iudges of y earthe. And it folowethe: least the lord be angrie, and so you perishe from the waye of righteousness. Neyther doth holy scripture (o kinges sonne) commaund you onely to be skilfulle instruct in the lawes, wherby you shal purchase and obtēin y possessiō of iustice but also in an other place it biddeth you vnfainedly to loue Justice, wher it sayethe. Set your loue & affection vppon Justice you that are iudges of the earthe, in the firste chapter of the booke of wyse dome.

sed solum ad disciplinam legis, qua Iudicia redduntur reges inuitat propheta in his verbis. Cum specialiter ipse dicat: Erudimini qui iudicatis terram. Et sequitur: Ne quando irascatur dominus, & pereatis de via iusta. Nec solum legibus, quibus iusticiam consequeris, fili regis imbui te iubet sacra scriptura, sed et ipsam iusticiam diligere, tibi alibi precipit, cum dicat. Diligite iusticiam qui iudicatis terram. Sapien. Capitulo primo.

Ignor.



## Fortescue, in commendacion

*Ignorance of the lawe causeth the contempt thereof.*      *Cap. 5.*

**S**Ed quomō iusticiam diligere poteris, si non primo legum scientiā quibus ipsa cognoscatur, utcūque apprehēderis? Dicit namq; Philosophus, quod nihil amatū nisi cognitum. Quare Fabius Orator ait, qd' felices essent artes si de illis soli artifices iudicaret. Ignotum vero nō solum nō amari, sed & sperni solet. quō poeta quidā sic ait: omnia que nescit, dicit spernēda colonus. Et nō coloni solum vox hec est sed et doc-

**B**ut howe can you loue Justice, vnles you first haue a sufficient knoweledge in the lawes, wherē by the knoweledge of it is wonne and had: For the Philosopher saith that nothinge can bee loued except it bee known. And therefore Quintilian the Oratoure sayeth, that happie shoulde artes bee, if artificers onely weare iudges of them. As for that whiche is vnknown it is wonte not onely not to be loued, but also to bee despised. And therefore a certayne poet thus saith.

The plowmā doth despise and skof,  
the thing he is not skilfull of,

of the lawes of Englande Fo. 15.

And this is the saynge  
not of plowmen alone  
but also of learned, and  
right skilfull men. For yf  
vnto a naturall Philoso-  
pher y neuer studied y ma-  
thematicall sciences a su-  
pernaturall Philosopher  
shoulde saye that thys sci-  
ence considerethe thyn-  
ges seuered from all ma-  
ter and mouinge, accor-  
dyng to theire substanti-  
all beeyng and reason:  
or the Mathematical man  
shoulde say that this scy-  
ence considerethe thinges  
ioyned to mater and mo-  
uing after theire substance  
but seuered accor dyng to  
reason, both these though  
Philosophers, wil y natu-  
ral philosopher, which ne-  
uer vnderstood thigs seue-  
red fro mat & motio either

torum peritissimo  
rum quoq; virorū  
Nā si ad Philoso-  
phum natural' qui  
in mathe. nunquā  
studuit, methaphi-  
sicus dicat qd' sci-  
entia sua conside-  
rat res seperatas ab  
ōni materia et mo-  
tu sed' in esse et se-  
cū dū rationē: Vel  
mathematicus di-  
cat, quod sua scien-  
tia considerat res  
coniunctas materi-  
e, et motui secun-  
dum esse sed sepa-  
tas secundum rati-  
onem. Ambos hos  
licet phōs, philoso-  
phus ille naturalis  
qui nūquā nouit  
res aliquas sepatas  
a materia & motu  
essentia



## Fortescue, in commendacion

essentia vel ratione spernet eorumque sciencias, licet sua scientia nobiliores ipse deridebit, non alia duct<sup>9</sup> causa, nisi quia eorum sciencias ipse penitus ignorat.

Sic et tu princeps legis Anglie pitu miraberis, si dicat quod frater fratri sibi nequaquam vterino, non succedet in hereditate paterna, sed poti<sup>9</sup> hereditas illa, sorori integri sanguinis sui descendet. Aut capitali domino feodi accidet vt escaeta sua. Cu<sup>m</sup> causam legis huius tu ignores, in lege tamen Anglie doctum, huius casus difficultas nullate-

in beinge or in reason, betterlye despise, and theyre sciences though in deede moze excellent thenne his, will hee laughe to scozne, moued so to do by none other cause, but that hee is altogether ignorant in theire sciences. Lykewyle you most worthye prynce would wonder at one skilfull in the lawes of Englande, if he should say that the brother shal not succede his half brother in their fathers inheritance, but rather his inheritance shall descende to the sister of the whole bloude, or els it shalbee intituled to the chiefe lord of the fee as his escheat: Perat you would muche marueill, because you knowe not the cause of this lawe. Howebeit the difficultie of this case

no

of the lawes of England. Fo 16

nothing troubleth him y  
is learned in the lawes of  
England. Wherefore it is  
a comen sayinge, that  
an art hath no foe but the  
ignozaunt person.

But god forbid **O** noble  
p<sup>r</sup>ince that you should be  
an enemye to the lawes  
of that royaume, whiche  
you shall by succession in-  
herite: or that you should  
despise them, seeing y y a  
fore cited text of scripture  
instructeth you to the loue  
of Iustyce. Wherefore  
moste soueraigne p<sup>r</sup>ince  
I doe with moste earnest  
affection requite you to  
learne the lawes of your  
fathers kingdome, whom  
you shall succede, not  
onelye to the intent you  
maye the rather auoyde  
these inconuenyences,

nus perturbat.

Quare et vulga-  
riter dicitur: quod  
ars non habet in-  
imicum nisi ig-  
norantem.

Sed absit a te, fili  
Regis, vt inimi-  
ceris legibus reg-  
ni quo tu succes-  
surus es, vel vt eas  
spernes cum iu-  
sticiam diligere,  
predicta sapientie  
lectio te erudiat  
Iterum igitur atq;  
iterum, princeps  
inclitissime, te ad-  
iuro vt leges reg-  
ni patris tui, cui  
successurus es ad-  
discas.

Ne dum vt in-  
conuenientias has  
tu euites: Sed  
quia

C.i.



## Fortescue, incommendacion

quia mens humana, quę naturaliter bonum appetit, et nihil potest appetere, nisi sub ratione boni, mox vt per doctrinam bonum apprehenderit, gaudet et illud amat, ac quanto deinceps illud plus recordatur, tanto amplius delectatur i eodem. quo doceris quod si leges predictas quas iam ignoras intellexeris p doctrinam, cum optime ille sint, amabis eas. Et quanto plus easdem mente pertractaueris, tanto eisdem delectabilius tu frueris.

but also because mannes mynde which naturally desireth the thing that is good, and can desire nothing, but in respects that it is good, as soone as by learninge it hath taken holde of that whiche is good, it becommeth ioyefull, and loueth the same: & the more that it is afterwarde occupied in the remembrance of the same, so much it is more delighted therein. ¶ Whereby you are taughte y if you once by learning attaine to y vnderstanding of y foresaid lawes wherein you are nowe ignorant, seeinge they bee perfectlve good, you must needes loue the. And y more y you record the in your mnde, so much y more deelyte & pleasure shal you haue in them.

For what soeuer it is y  
is loued, the same draw-  
eth the louer of it into y  
nature therof. So that as  
the Philosopher sayeth, vse  
or exercise becommeth an  
other nature. So a slippe  
of a Pearre tree beeynge  
grafted into the stocke of  
an appletree, after that  
it hath taken, it so draw-  
eth the appletree into the  
nature of the Peartree, y  
they bothe for euer after  
are rightly called a peare  
tree, and doe bring furth  
the fruite of a pearetree.  
In lyke sorte continuall  
vse and practyse of vertu  
causeth a full perfection  
therof, in so muche that  
the practyser of the same  
is after ward named ther  
by: as a man indued with

Nam omne quod  
amatur, vsu tra-  
hit amatorem su-  
um in naturam  
eius. Vnde vt di-  
cit Philosophus  
vsus altera fit na-  
tura, sic ramuncu-  
lus piri, stipiti po-  
mi insertus, post-  
quam coaluerit,  
ita pomum trahit  
in naturam piri,  
vt ambę dein-  
ceps merito pirus  
appellentur, fruc-  
tusq; producant  
piri. Sic et vsitata  
virtus habitum  
generat, vt vtens  
ea deinde a vir-  
tute illa deno-  
minetur, quo mo-  
destiæ peditus,  
vsu



**Fortescue**, in commendacion  
 vsu modestus no- modestye, of the vse ther-  
 minatur, continē- of is named modest. Hee  
 tię, continens, et that vseth continencye is  
 sapientię sapiens. called continent, and one  
 Quare et tu prin- garnished with wisdom  
 cept, postquam iu is called wise. Wherefore  
 stitia delectabili- you also moste myghtye  
 ter functus fueris, pynce, when you are ple-  
 habitumque le- santly deltyed in Justice,  
 gis indutus fueris and therewith indued, in  
 merito denomi- respect of the perfeccion of  
 naberis iustus, cu- the law you shal worthe  
 ius gratia tibi di- be called Just. For which  
 cetur: dilexisti iu- cause it shalbe saide vnto  
 sticiam, quo et o- you: Thou hast loued Ju-  
 disti iniquitatem, stice & hated iniquitie, and  
 propterea vnxit therfore the lord thy God  
 te dominus deus hath anointed the with  
 tuus oleo letitię oyle of gladnes aboue the  
 pre consortibus kings of the earth thy co-  
 tuis regibus terre panions.

¶ Here the Chauncellour briefly repeareth  
 the effect of all his perswa-  
 cion. Cap. 6.

Polus

of the lawes of England. Fo i8

**N**ow moſte gracious  
prince is not all thys  
enoughe to moue youre  
highnes to the ſtudye of  
lawe: Seeing that thereby  
you ſhal indue your ſelfe  
with Juſtice, whiche ſhall  
yelde vnto you the name  
of a juſte man. And ſhall  
alſo eſchue the infamy of  
ignozaunce in the lawe.  
And further by the lawe  
you enioying felicity, ſhal  
be bleſſed in this life. And  
finallye beinge furniſhed  
w<sup>th</sup> a louyng feare, whiche  
is the wiſedome of God,  
you ſhall obtaine & poſſeſſe  
Charitie, whiche is a ſted  
faſt loue to godward, and  
by the meane thereof clea  
uyng to God, you ſhall  
by the apoſtles ſayenge  
bee made one Spirit  
w<sup>th</sup> hym.

**N**onne tunc  
Princeps ſe  
reniſſime, hec te  
ſatis concitant, ad  
legis rudimenta:  
cū per ea, iuſtiā  
induere valeas;  
quo et appellabe  
ris iuſtus, igno  
rantie quoq; legis  
euitare poteris ig  
nominiam: ac per  
legem felicitate  
fruens, beatus eſſe  
poteris in hac vi  
ta, et demum fili  
ali timore indu  
tus, qui dei ſapien  
tia eſt, charitatem  
que amor in deū  
eſt imperturbatus  
conſequeris, qua  
deo adherens, per  
Apoſtoli ſenten  
tiam, fies vnus ſpi  
ritus cum eo.

Sed

C.iii.



81 Fortescu, in commendacion

Sed quia ista, sine gratia lex operari nequit, tibi illam super omnia implorare necesse est, legis quoque diuine et sanctorum scripturarum indagare scientiam. Cum dicat scriptura sacra: quod vani sunt omnes in quibus non subest scientia dei. Sapientie cap. xiiij. His igitur princeps, dum adulescens es, et anima tua velut tabula rasa, depinge eam, ne in futurum, ipsa figuris minoris frangi delectabilius depingatur.

Quia etiam (vt sapiens quidam ait)

But forsomuche as the lawe without grace cannot accomplishe these things it is necessarie and requisite that aboue all things you make earnestte intercession for it: and also y<sup>e</sup> you beccome a studious sercher of goddes lawe, & of the holye scripture.

For scripture saith that all men are vaine in whō is not y<sup>e</sup> knowlege of god in the xliiij. chapter of the booke of wisdom.

Wherefore moste noble prince while you are yet young, & while your soule is as it were a smoothe blanke table, write in it these things, lest heere after you happen to take pleasure in writing lessōs of lesse profit therin.

For as a certeine wyse man sayeth,

¶ here.

of the lawes of England, Fo 19

Whereof the vessel newe,  
did first receue the taste:

Therein when it is olde,  
the sent will euer last.

That handycraftes mā  
dothe so negligentl ye re-  
gard y<sup>e</sup> profite of his child  
whōe while hee is yong,  
he wil not see brought vp  
in such an occupacion, as  
thereby hee maye after  
warde obtaine to leade a  
mery life. So the carpenter  
teacheth his sonne to  
cutt with an are: y<sup>e</sup> smyth  
his to stryke w<sup>th</sup> an ham-  
mer: and whome he en-  
tendethe to make a spiri-  
tuall minister, him he pro-  
cureth to be trained vp in  
learning. So likewise is  
it convenient y<sup>e</sup> a kinges  
sonne which shal gouern  
the people after his fa-  
ther hee in his yout he in-  
structed in the lawes.

quod noua testa-  
capit, inueterata  
sapit. Quis artifex  
tam negligēs pro-  
fectus suę prolis  
est, vt nō eā dum  
pubescit artibus  
instruat, quibus  
postea vitę solatia  
nanciscatur? Sic li-  
gnarius faber se-  
care dolabro, fer-  
rarius ferire mal-  
leo, filiū instruit:  
et quē in spiritua-  
libus ministrar<sup>e</sup> cu-  
pit, literis imbui fa-  
cit. Sic et principi  
filium suum qui  
post eum populū  
regulabit, legibus  
instrui dū minor  
est conuenit,  
qualiter



Fortescu, in commendacion

qualiter si fecerit **W**hiche order if the rulers of the worlde would obserue, then the worlde should be gouerned with muche more Justice then now it is. Unto whom if you wyll followe myne exhortacion, you shall minister no smale example.

**N**ow the Prince yeldeth himselfe to the studye of the lawes, though he be yet disquieted with certeine doubts. Ca. 7.

**S**ilente extunc  
Cancellario,  
Princeps ipse sic  
exorsus est. Vi-  
cisti me, vir egre-  
gie, suauissima o-  
ratione tua, qua  
et animum me-

**T**hus when the Chaū-  
cellour had sayde, hee  
helde hys peate, to whom  
the Prince beganne on  
this wise to speake. You  
haue overcome me wel be-  
loued Chauncellour w  
your moste plesant talke,  
wherw you haue flained  
my

my mynde with a feruēt desire towarde the know ledge of the lawe . How bee it ii. thynges there bee that doe tisse my mynde to and fro, and so disquiet it, that lyke a shyppe in the raging waues, it knoweth not whiche waye to inclyne for ease . The one is, while it consyde rcth holwe manye yeares the studentes of the lawes bestowe therein befoze they canne attain to suf ficient knowledge of the same . Whiche causeth my mynde also to dreade leaste that I shoulde like wyle spende the yeares of my youthe.

The other is whether I shall applye my selfe to the studye of the lawes of England, or of the Ct

um, ardore non minimo legis fecisti sitire documenta. Sed tamē duobus, me huc illucq; , agitantibus, animus ipse affligitur: vt tanquam in turbido mari cimba, nesciat quorsum dirigere proras. Vnū est, dum recolitur quot annorū cur ricularis leges addiscentes, earum studio se conferunt, antequam sufficientem earundem peritiam nanciscātur: quō timet animus ipse, ne consimiliter ego pretereā animos iu uentutis meę. Alterum est, an Anglię Legum vel Ci-



## Fortescue, in commendacion

niliū quę per uile laus, which through  
orbem percele- out the whole worlde are  
bres sunt, studio chieflie esteemed: For  
operam dabo. people maye not be gouer-  
ned but by righte good

Nam non nisi op-  
timis legibus po-  
pulum regere li-  
cet, etiam ut dicit  
Philosophus, na-  
tura deprecatur  
optima, quare li-  
benter super his,  
quid tu consulis  
ascultaremus.

Cui Cancellarius  
Non sunt hec, fili  
Regis, tantis ce-  
lata misteriis, ut  
deliberatione ege-  
ant ingenti, quare  
quid in his mihi  
visum est prodere  
non differemus.

laues, and as the Philo-  
sophier saithe, nature co-  
ueteth that which is best.  
Wherefore I would glad-  
ly heare your counsell in  
this behalfe. To whome  
the Chauncellour made  
thys aunswere. These  
matters, O kynges  
sonne, are not hydde vn-  
der so deepe and darke  
misteries, that they re-  
quire any greate delibe-  
racyn, or aduysement.  
And therefore what I  
thinke best hearein I wil  
not hyde.

¶ So much knowledge of the lawe as is  
necessary for a Prince, is  
soone had. Cha. 8.

**A**ristotle in the firste booke of his naturall philosophy saith, y then we suppose our selues to haue the knowlege of euerye thinge, when wee know the causes and beginnings therof euen to the principles, bypon the which text the comentator saith that the philosopher by beginnings of principles did vnderstande the causes efficient, by y terme Causes he vnderstande causes finall, & by Elementes matter and forme. But in the lawe there are no matter and forme, as in thinges natural, and compounde. Now best ther be in them certeine Elementes, out of the which they procede as out of mater & forme.

**Philosophus** in primo Phisicorum dicit, quod tunc vnumquodque scire arbitramur, cum causas et principia eius cognoscamus vsque ad elementa. Super quem textum comentator dicit qd' Aristot' p principia intellexit causas efficientes, p causas intellexit causas finales, et per elementa materiam et formam. In legibus vero non sunt materia et forma, vt in Phisicis et compositis. Sed tamen sunt in eis elementa quedam, vnde ipse pstat, vt ex materia et forma, que



Fortescue, in commendacion

que sunt consue-  
tudines, statuta, et  
ius nature, ex qui-  
bus sunt omnia  
iura regni, vt ex  
materia et forma  
sunt queq; natur-  
ralia: et vt ex litte-  
ris, que etiam ele-  
menta appellan-  
tur, sunt omnia  
que leguntur.  
Principia autem,  
que commenta-  
tor dicit esse cau-  
sas efficientes, sunt  
quedam vniuer-  
salia, que in legi-  
bus Anglie docti,  
similiter et Mathe-  
matici, maximas  
vocant: Rethori-  
ci, paradoxas: &  
Ciuiliste, regulas  
iuris denominat:  
ipsa reuera non

remouetur a natura

242

These are custōs, statutes  
& the lawe of nature: of  
which all the lawes of the  
realme haue their begin-  
ning, euen as all natural  
thinges haue of matter &  
forme, and as all things  
that are written and read  
do consist of letters, which  
also are called elementes.  
But Principles, or bee-  
ginninges, whiche are as  
the commentarpe saith,  
causes efficient, they are  
certein vniuersal proposi-  
tions, which they that bee  
learned in the lawes of  
England and like wyse &  
Mathematicals do terme  
Maximes: the Rethorici-  
ans do call the same Pa-  
radoxes: and the Ciuilians  
terme the ruelles of the  
law. These in dede canot  
bee proued by force of  
argu-

argumentes, or by demonstrations logicall, but as it is saide in the seconde booke of Posterior, they are knowen by induction by the waye of sense and memozye. Wherefoze in the firste booke of hys naturall Philosophie Aristotle sayth that principles are not made of others, no: one of them of an other, but all other bee made of them. And accordinge thereunto in the firste booke of his Topics hee writeth, that every principle is a sufficient prooofe of it selfe.

And therefore the Philosopher saith that suche as denye them ought not to bee disputed or reasoned withall: because that as hee writeth in the sixthe

argumentorum vi, aut demonstrationibus logicis dinoscuntur. Sed, vt secundo posteriorum docetur inductione, via sensus, et memorie adipiscuntur, quare et primo philosophorum philosophus dicit: qd principia non fiunt ex aliis, neque ex alterutris, sed ex illis alia fiunt, quô primo topicorum scribitur, quod vnûquodq; principiorum est sibi ipsi fides. Unde, cum negantibus ea, dicit philosophus non est disputandum: quia, vt scribitur vi. Ethicorum.

ad



## Fortescue, in commendacion

ad Principia non  
est ratio.

Igitur principiis  
imbuendi sunt,  
quique gliscunt a-  
liquas intelligere  
facultates. Ex eis  
etenim, reuelan-  
tur cause finales,  
ad quas rationis  
ductu, per princi-  
piorum agnitio-  
nem peruenitur,  
vnde his tribus,  
videlicet princi-  
pijs, causis, et ele-  
mentis ignoratis  
scientia de qua ip-  
sa sunt, penitus ig-  
noratur. Et his  
cognitis, etiam  
scientiam illam  
cognitam esse,  
non determinatè,  
sed inconfusò et

booke of his morall Philo-  
sophie, there is no reaso  
to be geuen for principles  
¶ Therefore whosoever  
they be that couet to pro-  
fite in y knowlege of any  
faculties, they must nedez  
first be furnished w principles.  
For by them are  
opened the causes finall,  
vnto the which by the di-  
rection of reason through  
the knowledge of y prin-  
ciples we doe attaine.  
Wherfore these iii. viz prin-  
ciples, causes, and elemnts  
beinge vnknowen, the  
science whereof they are  
is altogether vnknowen  
And the same. iii. beeing  
knowen, the science also  
whereof they are is tho-  
ught to be knowen, not de-  
terminatly or pricely, but  
supficially after a cofuse  
and

& vniuersall sorte.

Thus wee thinke our selues to haue the knowledge of godds lawes, when wee vnderstande our selues to knowe faith charitie, and hope, and also the Sacramentes of the church, and the commaundementes of God, leauynge to the prelates of the Church the other misteries of theologie.

Wherefore the lord saith vnto his disciples: To you it is geuen to know the misterie of the kyngdome of God, but to other in Parables, that seeynge they maye not see. And the Apostle sayeth: Not to bee wyser then it becometh.

And in another place.

vniuersaliter arbitratur.

Sic Legem diuinam nos nosse indicamus, dum fidem, charitatem et spem, sacramenta quoque ecclesie, ac dei mandata nos intelligere sciamus, cetera theologie misteria ecclesie presidentibus relinquentes.

Quare dominus discipulis suis ait.

Vobis datum est nosse misterium regni dei, ceteris autem in parabolis, vt videntes non videant &c.

Et Apostolus dixit, non plus sapere quam oportet sapere, & alibi

non



## Fortescue, in commendacion

non alta sapiētes.  
 Sic et tibi p̄iceps  
 necesse non erit  
 misteria legis an-  
 glię longo disci-  
 plinatu rimare, suf-  
 ficiēt tibi vt ī gra-  
 matica tu profe-  
 cisti, etiā & in legi-  
 bus proficias. Gra-  
 maticę vero per-  
 fectionem que ex  
 Ethimologia, Or-  
 tographia, Proso-  
 dia, et Syntaxi,  
 quasi ex quatuor  
 fontibus profluit,  
 non specie tenuis  
 induisti, et tamen  
 gramatica suffici-  
 enter eruditus es,  
 ita vt merito gra-  
 maticus denomi-  
 neris. Consimilit̄  
 quoq; denominari  
 legista mereberis,  
 si legum p̄cipia,

Not beeinge highe in  
 wisdomē. In like maner  
 O moste woꝛthy P̄ince,  
 it shall not bee needefull  
 foꝛ you with longe study  
 to searche out the secrete  
 misteries of the lawe of  
 Englande. It shall suf-  
 fice foꝛ you as you haue  
 profited in grammer, so  
 also to profite in lawe.  
 Untoo the perfection of  
 grammer springinge out  
 of Etimologie, Ortho-  
 graphie, Prosodie, & Con-  
 struction as out of. iiii.  
 fountaines, you haue not  
 exactlye attayned, and  
 yet you are so sufficient-  
 ly grounded in grammer  
 that you may well be cal-  
 led a Gramarrien. Like-  
 wise shall you be wel woꝛ-  
 thy to be called a lawier,  
 if you serch out y<sup>e</sup> p̄ciples  
 and

of the lawes of England. Fo. 24

et causas of þ lawes euen to þ elementz after þ manner of a scholar or a learner. For it shal not be needefull or expediēt for you by the trauel of your owne wytte to studie out the hydde mysteries of þ lawe. But let þ geare be leste to your iudges & mē of lawe, whiche in the royaume of Englande are called Seriauntz at lawe and to other professors of the lawe commēly called apprentices. For you shall better execute iudgements by other, then by your self. Neither hathe it bene seē that any kynge of Englonde hathe pronounced iudgement with his owne mouthe. And yet neuerthelesse all the iudgements of the

et causas, vsq̄ ad elementa, discipuli more indagaueris. Nō enī expediet tibi ppria sensus indagine legis sacramenta rimare sed relinquatur illa iudicibus tuis et aduocatis, qui in regno Anglię, seruientes ad legem appellātur, similiter et aliis iuris pītis, quos apprenticiōs vulgus denominat, Melius enī per alios, quā per te ipsum iudicia reddes, quō proprio ore nullus regum Anglię iudicium proferre visus ē, et tamē suā sunt ōnia iudicia  
D. l. regni



**Fortescue, in commendacion**

regni licet per alios ipsa reddatur, sicut et Iudicum omnium sententias Josaphat asseruit esse iudicia dei.

Quare tu princeps serenissime paruo tempore, parua industria, sufficienter eris in legibus regni Anglię eruditus, dummodo ad eius apprehensionem tu conferas animum tuum. Dicit namque Seneca in epistola ad Lucillum. Nil est quod pertinax opera et diligens cura non expugnat. Nosco namque ingenii tui perspicacitate, quo audacter pronuncio, quod in legibus illis licet earum peritia

royalme are his, though by other they be uttered and pronounced. Lyke as also kynge Josaphat affirmed the sentences of all the iudges to bee the iudgements of god. Wherefore most gracious prince you shall in shorte tyme with little labour be sufficiently learned in the lawes of Englad, so that you do applie your mynd to the obteynynge thereof. For Seneca in an epistle to Lucillus sayeth: There is nothige which earnest traueill and diligent care atchieueth not And so wel do I knowe the prompte towardnes of your nature, y I dare be bolde to saye, that in those lawes (though the

of the lawes of England. Fo. 29

eracte knowelege of the  
suche as is required i iud  
ges can skante be gotten  
in the space of xx. yeares)  
you shall sufficiently in  
one yeare attayne to so  
muche vnderstandynge,  
as is cōueniēt for a p̄ice  
Neither in the meāe time  
shall you neglect and o  
mitt the studie of marti  
all discipline, wherebnto  
you are so feruently ge  
uen, but durynge all the  
same yeare in steade of re  
creatiō you shall vse the  
practise thereof of at your  
pleasure.

qualis, iudicibus  
necessaria est, vix  
viginti annorum  
lugubris acquira  
tur, tu doctrinam  
principi congruā  
in anno vno suffi  
cienter nancisce  
ris, nec iterum mi  
litarem disciplinā  
ad quam tam ar  
dēt anhelas neg  
liges, sed ea recre  
ationis loco, eti  
am anno illo tu  
ad libitum per  
frueris.

A Kynge whose gouernement is politike ca not  
chaunge the lawes of his royalme.

The secōd poynte, most SEcundum ve  
worthy p̄ice, whereof ro Princeps qd  
you shāde in feare shall i tu formidas con

D. ii. Trinit



[ Fortescue, in commendacion

lyke maner, and as easel/  
as the other be confuted.  
For you stande in doubt  
whether it be bett for you  
to geue your mynde to y  
studie of the lawes of En  
glande, or of the Ciuile  
lawes, because they thro  
ughe out y whole worlde  
are auāced in gloze and  
renowne aboue all other  
mās lawes. Let not this  
scruple of mynde trouble  
you, & most noble price.  
For y kynge of Englāde  
can not alter nor change  
the lawes of his royalme  
at his pleasure. For why  
he gouerneth his people  
by power not onely roial  
but also politique. If his  
power ouer thē were roy  
all onely then he myght  
chāge y lawes of his roy  
alme, & charg his subiects  
w tallag, & other burdenz

consimili nec ma  
iori opera elide  
tur. Dubitas nēpe  
an Anglorum le  
gum, vel ciuiliū  
studio te conferas  
dū Ciuiles supra  
humāas cūctas le  
ges alias fāa per  
orbē extollat glo  
riosa. Non te cō  
turbet fili regis,  
hec mentis euaga  
tio. Nam non po  
test rex Anglię,  
ad libitū suū le  
ges mutare regni  
sui. Principatu nā  
que nedum regali  
sed et politico ip  
se suo populo do  
minatur. Si rega  
li tantū ipse pesser  
eis, Leges regni  
sui mutar' ille pos  
set. tallagia quoq;  
et cetera onera eis  
imponere

without their cōsēt. And suchē is the dominiō that the ciuile lawes purport when they saye: The pri-  
 cets pleasure hath & force of a lawe. But from this muchē differeth & power of a kynge, whose gouern-  
 ment ouer his people is politique. For he can nei-  
 ther chaūge lawes with-  
 out the consent of his sub-  
 iectz, nor yett charge the  
 with strange impositi-  
 ons agaynst their wylls  
 & herefoze his people do  
 frankely & freely enioye  
 and occupye their owne  
 goodz beyngē ruelēd by  
 such lawes as y<sup>e</sup> the selfz  
 desyer. Neither are they  
 pylled either of y<sup>e</sup>ir owne  
 kynge or of any other.  
 Lyk pleasur also & credō  
 haue y<sup>e</sup> subiectes of a kīg  
 rulig oely by power roial

ponere ipsis incō-  
 sultis, quale domi-  
 niū denōtāt leges  
 ciuiles, cū dicant,  
 quod principi pla-  
 cuit legis, habet  
 vigorē. Sed lōge  
 aliter potest rex  
 politicē imperans  
 gētī suę, quia nec  
 leges ipse sine sub-  
 ditorū assēsu mu-  
 tare poterit, nec  
 subiectum popu-  
 lū renitētē, onera-  
 re impositionibus  
 peregrinis, quare  
 populū eius libe-  
 rē fruitur bonis su-  
 is legibus quas cu-  
 pit regulatus, nec  
 per regem suū  
 aut quemuis aliū  
 depilatur, cōsimi-  
 liter tamen plau-  
 dit populus, sub  
 rege regalit' tantū  
 D. III. princi



### Fortescue, in commendacion

principate, dūmo  
do ipse in tyran-  
nidem nō labatur  
de quali rege di-  
cit philosophus. iii  
politicorū, qd. me-  
lius ē Ciuitatē re-  
gi viro optimo  
quā lege optima.  
Sed quia nō sēper  
cōtigit p̄sidētē po-  
pulo huiusmodi  
esse virum, sctūs  
Thomas in libro  
geum Regi Cipri  
scripsit de regimi-  
ne p̄cipū, optarī  
ēsetur, regnū sic  
īstitui, vt rex non  
libere valeat po-  
pulū tirānide gu-  
bernare, qd. solū  
fit, dū potest Re-  
gia lege politica  
cohibetur. Gau-  
de igitur p̄iceps  
optime, talē esse  
legē regni in quē  
tu successurus es,

so longe as he falleth not  
into tyrannie. Of such  
a kynge speaketh Aristo-  
tle in the thirde booke of  
his Ciuille philosophie, sa-  
ieng that it is better for  
a Citie to be gouerned  
by a good kynge then  
by a good lawe. But for  
somuche as a kige is not  
euer suche a mā, therefor  
Sait Thomas i h̄ booke  
whiche he wrote to h̄ kig  
of Cyprus of the gouer-  
nauce of p̄ncets wi-  
theth h̄ state of a roialme  
to be such, ȳ it may not be  
in the kyngs power too  
opresse his people w̄ ty-  
rannie. Whiche thyng  
is p̄fourmed onely whyle  
the power royall is res-  
trayned by power poli-  
tique. Reioyce therefore  
O souereigne p̄ince, and  
be gladde, that the lawe  
of your roialme, wherē

of the lawes of Englande Fo 27

you shal succede, is suche  
fo: it shall exhibite and  
minister to you and your  
people no small securitie  
and comforte. with suche  
lawes as saith the same  
Saint Thomas should  
all mankynde haue bene  
gouerned, if in paradise  
they had not transgressed  
gods commaundement, with  
such lawes also was the  
Synnagoge ruled, whil  
it serued vnder god onely  
as kige, who adopted the  
sae to him fo: a peculiar  
kyngdome. But at the last  
whē at their request they  
had a mā kyng sett ouer  
them, they were then vn-  
der royall lawes onely  
brought vnder lowe. And  
yet vnder the sae lawes  
while good kyngs were  
yr rulers, they liued wel  
thelp & whē wilfull and  
tyrannous kynges had the

quia et tibi, et po-  
pulo, ipsa securita-  
tem prestabit nō  
minimam et sola-  
men. Tali lege vt  
dicit idem factus,  
regulatum fuisset  
totū genus huma-  
num, si in paradi-  
so dei mandatum  
non preterisset, ta-  
li etiam lege rege-  
bat sinagoga, dū  
sub solo deo rege  
qui eam in regnū  
peculiare adop-  
tabat. illa milita-  
bat sed demum  
eius petitione, Re-  
ge homine sibi cō-  
stituto, sub lege tā-  
tum regali ipsa de  
inceps humiliata  
est. Sub qua ta-  
men dum optimi  
reges sibi prefue-  
runt, ipsa plaussit,  
et cum discoli ei  
preessébāt



Fortescue, in commendacion

preceſſebant, ipſa i  
conſolabiliter lu-  
gebat, vt regū li-  
ber hec deſtincti<sup>9</sup>  
manifeſtauit. Ta-  
mē q̄a de mat'ia iſ-  
ta in opusculo qd  
tui contemplacio  
ne de natura le-  
gis naturę exarauī  
ſufficienter puto  
me diceptaffe, pl<sup>9</sup>  
inde loqui iam de  
ſiſto.

gouernemēt of them, the  
they cōtinued in great diſ-  
comfort and miſerie, as  
the booke of kynges doth  
moze playnely declare.  
But forſomuch as I ſup-  
poſe I haue ſufficiently  
debated this mater in my  
wozke, whiche at your re-  
queſt I cōpiled of h̄ natur  
of h̄ law of Natuē, therfor  
at this tie I ſurceaſe to  
ſpeake therof any moze

*Here the prince demaūderh a queſtion, Cap. 10.*

**T**Vnc princeps  
illico ſic ait.  
Vnde hoc cā  
cellarie, qd Rex  
vnus plebem ſuā  
regaliter tātū re-  
gere valeat, et re-  
gi alteri potestas  
huiusmodi dene-  
gatur. equalis fas-  
tigii cū ſint reges

Immediatly the price th<sup>9</sup>  
ſaid. Howe cometh this  
to paſſe good Chauncel-  
lour, that ōe kyng maye  
gouerne his people by  
power royal onely, and  
y an other kyng cā haue  
no ſuch power, ſei<sup>9</sup> bothe  
this kynges are i dignitie  
equall.

equall I cannot chose but ambo, Cur in po  
muche muse and matueil testate sint ipsi dis  
why i power they should pares, nequeo nō  
thus differ. admirari,

*The answer to this question is here omitted for  
that in another worke it is handled  
at large. Cap. 11.*

I haue sufficiētly, qd the **C**ancellarius.  
chaucellour, declared in Non minoris,  
my foresaid worke, y the esse potestatis, re-  
kynge whose gouerne- gem politicē im-  
ment is politique, is of no peratē, quā qui  
lesse power then he that vt vult regaliter  
royally ruleth his peo- regit populum su-  
ple after his owne plea- um, in supradicto  
sure howbeit they differ i opusculo sufficiē-  
autozitie ouer their sub- ter est ostensum.  
iets, as in the sãe worke Diuersę tamē au-  
I haue shewed, & saye I toritatis eos i sub-  
styll. Of whiche differēce ditos suos ibidem  
I wyll opē vnto you the vt iam nulla ten<sup>9</sup>  
cause as I can. denegauī, cuius di-  
ūsitatis causā vt  
potero tibi pādā

*Howe Kingdomes ruled by royall gouernement  
onely, first beganne. Cap. 12.*

Pomi-



Fortescue, in commendacion

**H**omines quō  
dam potentia  
prepollētes, auidi  
dignitatis et glo-  
riæ vicinas sepe  
gentes sibi virib⁹  
subiugarūt: ac ip-  
sis seruire, obtem-  
perare quoq; iussi-  
onib⁹ suis, cōpule-  
runt, quas iussio-  
nes, extunc leges  
hominibus illis es-  
se ipsi sanctierunt  
Quarū ppetione  
diutina, subiectus  
sic popul⁹, dum p  
subitiētes a cete-  
rorū iniuriis defē-  
debatur, in subici-  
entiū dominiū cō-  
sentierūt: Opor-  
tuni⁹ esse arbitra-  
tes, se vnius subdi-  
spio, quo erga ali-  
os defēder' quā ō-  
niū eos ifestā vo-  
lētū oppōsionib⁹

**M**en i tymes passed ex-  
cellenrye in power,  
grede of dignitie & glorie  
did many tymes by plate  
force subdue vnto them  
their neighbours the na-  
tions adioynnyng: and cō-  
pelled them to do thē ser-  
uice and to obeye their cō-  
maundements, which cō-  
maundemētz afterward  
they decreed too be vnto  
those people verie lawes  
And by longe sufferance  
of the sãe p people so sub-  
dued, beyng by their sub-  
duers defended from the  
iniuries of other agreed &  
consented to lyue vnder  
the dominion of the same  
their subduers thi kige it  
better for thē to be vnder  
p epiere of ōe mā whiche  
might be hable to defēde  
thē agaiſt other thē to be  
i daūger to be oppōsed of  
all such as would violētly

offer them any wronge. And thus certein kinges  
does were begonne. And those subduers th<sup>r</sup> rulig  
h<sup>e</sup> people vnto the subdu-  
er, tooke vpo<sup>n</sup> the of rue-  
lige to be called Rulers,  
which our language ter-  
methe kynges And their  
ruele o<sup>r</sup> dominiō was na-  
med onely royall o<sup>r</sup> king-  
ly. So Nemroth was the  
first h<sup>e</sup> gott vnto hiself a  
kingedōe And yett i<sup>n</sup> the  
holie scripturs he is not  
called a kige, but a stout  
o<sup>r</sup> mightie hūter before h<sup>e</sup>  
lorde f<sup>o</sup>o<sup>r</sup> lyke as a hūter  
subdueth wyld beasts ly-  
uige at their libertie, so  
did he brige mē vnder his  
obediēc. So did Bel<sup>o</sup> sub-  
due h<sup>e</sup> Assyrians, & Nin<sup>o</sup>  
the most pte of Asia. So  
also did the Romaines v-  
surpe the emper of the  
whole worlde. And thus

expōi. Sicq; regna  
quædā inchoata  
sūt, et subicientes  
illi dū subiectum  
populū sic rexerūt  
a regendo sibi no-  
mē regis vsurpa-  
rūt, eorū quoque  
dominat<sup>o</sup>, tātū re-  
galis dict<sup>o</sup> est. Sic  
Nēbrogh primus  
sibi regnū cōpara-  
uit, tamē non rex  
ipse sed Robust<sup>o</sup>  
venator corā do-  
mino sacris litte-  
ris appellatus est  
Quia vt venator  
feras libertatē fruē-  
tes, ipse homines  
sibi cōpescuit obe-  
dire. Sic Belus as-  
siriōs et Ninus  
quā magnā Asiæ  
ptē, ditioni suæ su-  
begerunt, Sic et  
Roani orbis iperī  
ū vsurpar<sup>o</sup> qualit<sup>o</sup>.



### Fortescue, in commendacion

ferè in omnibus  
gentibus régna i-  
choata sunt. Qua-  
re dum filii Israel  
regem postulatábāt  
sicut tunc habue-  
runt omnes gētes  
dominus inde of-  
fensus, legem re-  
galem eis per pro-  
phetam explana-  
ri mandauit. Que  
nō aliud fuit, quā  
placitum regis eis  
preessentis, vt in  
primo Regum li-  
bro plenius edo-  
cetur. Habes nunc  
(ni fallor) prin-  
ceps clarissim, for-  
mam exordii reg-  
norum, regaliter  
possessorū. Qua-  
re quomodo reg-  
nū politicē regu-  
latū, pmit<sup>r</sup> erupit  
etiam iā propalare

almost were the kingdōes  
of all nations begonne  
¶ herefore the lord be-  
inge displeased w<sup>th</sup> the  
childzen of Israell requie-  
rige to haue a kynge as  
then all other natiōs had  
commaūded the lawe re-  
gall to be declared vnto  
thē by y<sup>e</sup> prophet ¶ which  
lawe regal was no other  
thinge, but the pleasure  
of the kynge their gouer-  
nour: as in the first book  
of the kynges more fully  
it is cōteyned. Nowe you  
vnderstande as I suppose  
most noble p<sup>ri</sup>nce, the four-  
me and fasson of the be-  
gynnyng of those kynge-  
domes that be regally pos-  
sessed and ruele. ¶ here-  
fore nowe I wyll assaye  
to make plaic vnto you  
how & by what meāes y<sup>e</sup>  
gouernemēt of the kyng  
dō politique toke his first  
entraunce

of the lawes of Englande Fo. 30

extraunce & begynnyng  
to the ende and intent y  
when you knowe the be-  
gynnynges of them both  
it may be right easye for  
you thereby too discerne  
the cause of the diuersitie  
which in your questio is  
conteyned.

conabor, vt cog-  
nitis amborum  
regnorum initiis,  
causam diuersita-  
tis quam tu que-  
ris, inde elicere  
tibi facillimum  
sit.

*Howe Kyngedomes of politike gouernaunce were  
first begonne. Cap. 13.*

**S**aint Austē i xxxiii. chap-  
ter of his xix. booke *De*  
*ciuitate dei* saith y a peo-  
ple is a multitude of men  
associated by the consent  
of lawe, and communion  
of wealthe. And yett such  
a people beyng headless  
that is to saye without  
a heade, is not worthe  
to be called a bodie. For  
as in thynges naturall

**S**anctus Augus-  
tin<sup>9</sup> in libro xix  
de ciuitate dei ca-  
pitulo xxiii. dicit:  
Quod populus ē  
cetus hominū iu-  
ris consensu et v-  
tilitatis cōmunio-  
ne sociatus. Nec  
tamē populus hu-  
iusmodi dūz Ace-  
phel<sup>9</sup> (id est) sine  
capite est, corpus  
vocare meretur.  
Quia vt in natu-  
ralibus



## Fortescue, in commendacion

ralibus, capite de-  
truncato, residuū  
nō corp<sup>9</sup>, sed trū-  
cū appellam<sup>9</sup>: sic-  
et in politicis sine  
capite cōmunitas  
nullatenus corpo-  
ratur. Quo p<sup>mo</sup>  
politi<sup>c</sup> dicit phi-  
losophus, quōd  
quādocūq; ex plu-  
rib<sup>9</sup> cōstituitur v-  
nū: int' illa, vnū e-  
rit regēs, et alia e-  
rūt recta. Quare  
populū se in reg-  
num, aliudue cor-  
p<sup>9</sup> politi<sup>c</sup> erigere  
volētē, sēp oport<sup>et</sup>  
vnū p<sup>er</sup>ficere totius  
corporis illi<sup>9</sup> regi-  
tiuū, quē regē nōi<sup>n</sup>  
solit' ē. Hoc ordi<sup>n</sup>  
sicut ex embrione  
corp<sup>9</sup> surgit phisi-  
cū, vno capite re-  
gulatum, sic ex  
populo erumpit  
regnum, qd. cor-

When the heade is cutt of  
the residue is not called a  
bodie, but a truncheon, so  
likewyse in thinges poli-  
tique a cominalte wout a  
head is in no wise corpo-  
rate. Wherefore Aristotle i the first booke of his  
civile philosophie saith y  
whēsoever ōe is made of  
many, amonge y sūe one  
shalbe the ruler, and the  
other shalbe ruled. wher-  
fore a people that wyll  
rayse thēselfs into a king-  
dome, or into any other  
bodie politique must ever  
appointe one to be chiefe  
ruler of the whole bodie  
which in kingdōes is cal-  
led a kinge After this kinde  
of order, as out of the  
embryō rieseth a bodie  
natural ruled by ōe head,  
euen so of a multitude of  
people ariseseth a kyng-  
dōe whiche is a bodie mis-  
tical gouēed by ōe mā as

by an head. And like as  
in a natural body, as sai-  
eth the philosopher, the  
hart is y first y liueth, ha-  
uig win it bloud, which it  
distributeth among all y  
other members, whereby  
they are quickened & doe  
lyue: seblably in a bodye  
politik y intet of y people  
is the first liuely thig, ha-  
uig win it bloud, y is to  
say, politike prouision for  
the utilitie & welth of the  
same people, which it dea-  
leth furth & imparteth as  
wel to the head as to al y  
members of the same bodye  
wherby y bodye is nouris-  
shed & mainteined. Fur-  
thermore the lawe vnder  
the which a multitude of  
men is made a people, re-  
presenteth the seblance of  
lynelus i y bodye natural.  
Because that lyke as by

pus extat mysticu  
vno hoie vt capi-  
te gubernatu. Et  
sicut in naturali  
corpe, vt dicit phi-  
losophus, cor est  
primum viuēs, ha-  
bēs in se sāguinē,  
quē emittit in oīa  
eius mēbra, vnde  
illa vegetat' et vi-  
uūt: sic i corpe po-  
litico, intetio po-  
puli primū viuīdū  
est, habēs in se san-  
guinē, vz pūisio-  
nē politicā vtilit'  
populi illi⁹, quā in  
caput, et in oīa mē-  
bra eiusdē corpis,  
ipsa trāsmittit, quo  
corpus illud alitur  
& vegetatur. Lex  
vero sub qua cet⁹  
hominū, populus  
efficitur, neruorū  
corporis phisici re-  
net ratioñ: qā sicut  
per



## Fortescue, in commendacion

p neruos cōpago  
 corporis solida-  
 tur, sic per legem  
 quę a ligando di-  
 citur, corpus hu-  
 iusmodi mysticum  
 ligatur et serua-  
 tur in vnū, et eius-  
 dem corporis mē-  
 bra ac ossa, quę ve-  
 ritatis qua cōmu-  
 nitas illa sustenta-  
 tur soliditatē de-  
 notāt, per legem,  
 vt corpus natura-  
 le per neruos, pro-  
 pria retinent iura  
 Et vt non potest  
 caput corporis phi-  
 sici, neruos suos  
 cōmutare neque  
 mēbris suis p̄pas  
 vires et p̄pa lāgui-  
 nis alim̄ta denega-  
 re, nec rex qui ca-  
 put corpor' politi-  
 ci ē, mutar' potest  
 leges corpor' illi⁹

synelwes the ioyning of  
 the bodie is made sounde  
 so by the lawe which ta-  
 keth the name *a ligando* y  
 is to witte of byndynge  
 suche a mysticall bodie is  
 knytt and p̄serued toge-  
 ther. And the members &  
 bones of the same bodye  
 whereby is represented y  
 soundenes of the wealth  
 wherby that bodie is sus-  
 teyned, do by the lawes  
 as the naturall bodie by  
 synelwes reteyne euery  
 one their proper fūctions  
 And as the head of a bodi  
 naturall cā not chaūge his  
 sine wes, noz cā not denie  
 oꝝ withholde from his infe-  
 riour mēbers their peculi-  
 ar powers, & seuerall nou-  
 rishmētz of bloud, no more  
 cā a kige which is y head  
 of a bodie politik chaūge  
 the lawes of y bodie noz  
 withe

of the lawes of England - Fō. 32

Withdrowe from the same  
people their proper substā  
ce against their wills and  
consentes in that behalfe.  
Nowe you vnderstande  
inost noble pꝛince the four  
me of institution of a kig  
dome politiqe, wherebpe  
you maye measure the po  
wer, whiche the king ther  
of maye exercise ouer the  
lawe and subiectes of the  
same. For such a kinge vs  
made and ordeyned for y  
defence of the lawe of his  
subiectes and of theire bo  
dies and goodes, where  
unto he receaueth power  
of his people, so y hee can  
not gouern his people by  
any other power. Wher  
fore to satisfy your request  
in y you desire to be certi  
fied how it cometh to pas  
that in y powers of kings  
ther is so great diuersitie,

nec eiusdē populi  
substācias pprias  
subtrahere, recla  
mantib⁹ eis aut in  
uitis. Hēs ex hoc  
iā pꝛiceps, instituti  
ōis politici Regnī  
formā, ex qua me  
tiri poteris, potesta  
tē quā rex ei⁹ in le  
ges ipsi⁹, aut subdi  
tos valeat exercer.  
Ad tutelā nāq; le  
gis subditorū, ac e  
orū corpū et bono  
rū, rex hūmodi erec  
t⁹ est et ad hāc po  
testatē a populo ef  
fluxā ipse hēt, quō  
ei nō licet potesta  
te alia, suo populo  
dñari. Quare vtpo  
stulationi tuę, qua  
ctiorari cupis, vn  
de hoc puenit, qd  
potestates regum  
tā diūsīmōdē vari  
antur

C. i.



# Fortescue, in commendacion

atque succinctius satisfactum. Firme con-  
rector, quod diuinitas  
institutionem, dig-  
nitatem illarum quas  
palatii, predeam  
discrepantiam solu-  
modo operatur, per  
ut rationis discursu,  
tu ex premissis po-  
teris exhaurire. Sic  
namque regnum Anglie  
quod ex Bruti com-  
muniua Troianorum  
qua ex Italia et gre-  
corum finibus produ-  
xit, in domini-um po-  
liticum et regale per-  
rupit. Sic et Scotia  
quod ei quodam ut  
ducatus obediuit,  
in regnum crepit  
politicum et regale.  
Alia quoque plu-  
rima regna, necdum  
regalia sed et poli-  
tice regulata, tali o-  
rigine id sortitum sunt

suely in mine opinion the  
diuersitie of the institutio-  
or first ordinances of those  
dignities whiche I haue  
now declared, is the one  
lye cause of this foresayde  
difference, as of the pre-  
misses by the discourse of  
reason you maye easely  
gather. For thus y king-  
dome of Englande oute  
of Brutus retinne of the  
Troians whiche he brou-  
ght out of the coastes of  
Italye and Grece, firste  
grewe to a politique & re-  
gall dominion. Thus also  
Scotland which sometime  
was subiect to Englande  
as a Dukedome thereof  
was aduanced to a politick  
and roiall kingdome. Ma-  
ny other kingdoms also had  
thus their first beginninge  
not onely of regal but also  
of politique gouernement

¶ Where

Wherefore Diodorus Siculus in his seconde booke of olde histories thus writeth of the Egiptians. The Egiptien kings liued first not after y<sup>e</sup> licentious manner of other rulers, whose will & pleasure is in steede of law, but they kept themselves as private persones in subiection of the lawes. And this did they willingly, being perswaded that by obeyinge the lawes they should bee blessed. For of suche rulers as folowed their owne lusts they supposed many thinges to be done, whereby they were brought in danger of diuers harmes and perilles. And in his folwerth booke thus he writeth. The Ethiopian kinge as sone as hee is created, he ordecreth his life accordig to y<sup>e</sup> lawes

Vnde Diodor<sup>9</sup> Siculus in secundo libro historiartū præscarū de Egiptiis sic scribit. Suā primū Egiptij reges vitam non aliorū regnantū quibus voluntas pro lege est, traducebant licentia, sed veluti priuati tenebatur legibus, neq; id egrē ferebāt, existimantes parendolegibus, se beatos fore. Nam ab his, qui suis indulgerent cupiditatibus, multa censebant fieri quib<sup>9</sup> dampna periculaq; subirent. Et in quarto libro sic scribit. Assūpt<sup>9</sup> in Regē Ethiopū, vitā ducit statuta legibus, omniaque

E.ii. agit



**F**ortescue, in commendacion  
 agit iuxta patrios and doth al things after y  
 mores, neq; pmo maner and custom of hys  
 neq; pena afficiens countrey, assigninge ney  
 que qua preter per ther rewarde nor punish  
 traditam a superio ment to anye man other  
 ribus legem. Con then the law made by his  
 similiter loquit' de pzedecessours appointethe  
 rege Saba in felici He reportethe likewise of  
 Arabia, et alijs qui the kinge of Saba in Ara  
 busdam regibus. bia the happie, and of cer  
 qui priscis tempo tein other kinges, whiche  
 ribus feliciter reg in olde time bonozablye  
 nabant. reigned.

¶ Here the prince compediouly abbridgeth al that  
 the Chauncelour afore hath discoursed at large. ca. 14

**C**Vi princeps.  
 Effugasti Ca  
 cellarie, declaratio  
 nis tue lumine te  
 nebras quibus ob  
 ducta erat acies  
 mentis mee, quo  
 clarissime iam conspi  
 cio, quod non alio  
 pacto gens aliqua

**T**o whom the prynce  
 thus answered. You  
 haue good Chauncellours  
 w y cleare light of your de  
 claratiō quite driue a way  
 y cloud y mist, wherewith  
 the brightnes of my mind  
 was darkned: so that I do  
 most evidently see that no  
 nation

nation dyd cuer of theire  
owne voluntarie mind in  
corpoꝛat themselves into a  
kingedome foꝛ anye other  
intent, but only to the end  
that therby theye mighte  
with moze safety then be-  
foze mainteine themselves  
and enioye theire goodes  
from suche misfoꝛtunes &  
losses as theye stode in  
seare of. And of this intent  
shoulde suche a nation be  
utterly defrauded, if then  
their kinge mighte spoyle  
them of their goods, whi-  
che befoze was lawefull  
foꝛ no man to do. And yet  
shoulde such a people bee  
much moze iniured, if they  
shoulde after ward be go-  
uerned bye foꝛeyne and  
straunge lawes, yea and  
suche as they paraduētūre  
deadly hated & abhoꝛred.

proprio arbitrio  
vnquam se in  
regnum corpora-  
uit, nisi vt per  
hoc, se et sua quo-  
rum dispendia for-  
midabant, tutius  
quam antea possi-  
derent, quasi pro-  
posito gens huius-  
modi frauderet, si  
ex inde facultates  
eorum eripere pos-  
sit rex suus, quod  
antea facere vlli  
hominum non li-  
cebat. Et ad huc  
gravius multo po-  
pulus talis lede-  
retur, si deinde  
peregrinis legibus  
etiam ipsis for-  
san exosis, rege-  
rentur.

C.iii. Et



## Fortescuē, in commendacion

Et maxime si legibus illis eorum minoraretur substantia, pro cuius vitanda iactura, vt pro suorum tutela corporū, ipsi se regis imperio, arbitrio proprio submiserunt. Non potuit reuera potestas huiusmodi ab ipsis erupisse, et tamen si non ab ipsis, rex huiusmodi super ipsos nullā optineret potestatem, e regione aliter esse cōcipio, de regno quod regis solū auctoritate et potentia incorporatū est, quia non alio pacto gens talis ei subiecta ē nisi vt ei⁹ legib⁹, q̄ sūt illi⁹ placita, ges ip̄a q̄ eodē placito regnū eius effecta

And most of all if by those lawes theire substance should bee diminished, for the safegarde whereof, as also for the defence of theire own bodiees they of theire owne free will submitted themselves to the gouernaunce of a kynge. No suche power suerlye coulde haue proceeded from them. And yet if theye had not beene, suche a kynge coulde haue had noe power ouer them. Nowe on the other syde I perceaue it to stande muche otherwyse with a kingedome whychē onely by the auctorite of a kynge is incorporate. For such a nation is no otherwyse subiecte vnto hym, but that the same nation, whychē by his pleasure is made his kingdome, shoulde obeye hys lawes

lawes, and bee ruled by y<sup>e</sup> same being nothig els but his like pleasure. Yetther haue I yet good Chascelour forgotten that, whiche in your treatise of the nature of the law of nature you haue with pithie reasons clerkiye proued, concerning that the power of these .ij. kinges is equall. Howebeit the power of y<sup>e</sup> one, whereby hee is at libertie to deale wrogfully is not by suche liberty augmented and increased. As to be of habilitie to decaye and dye is no habilitie, but in respect of the priuation and feblenes in the thinge it is rather to bee called a dishabilitie. Because that as Boetius saith: habilitie and power is not but to good. So y<sup>e</sup> to bee of habilitie or power to do euill

est, obtéperaret et regenet. Neq; Cancellarie, a mea huc usq; memoria elapsu est, qd' alias in tractatu de natura legis nature, horu duoru regu equalé esse potetiá, doctis rationibus ostédisti, dum potestas qua eoru alter pperá agere liber é, libertate huiusmodi nō augetur, vt posse lauguescere, mori ue potentia non est sed propter priuationes in adiecto, impotentia potius denominandum. Quia vt dicit Boetius potentia non est nisi ad bonum, qd, posse male agere, vt



## Fortescue, in commendacion

vt potest rex regaliter regnans, liberius quam rex politicè dominans populo suo, potius eius potestatem minuit, quam augmentat. Nam sancti spiritus iam confirmati in gloria, qui peccare nequeunt potentiores nobis sunt, qui ad omne facinus liberis gaudemus habemus. Solum igitur mihi iam superest a te sciscitandum, si lex Anglię ad cuius disciplinatum me prouocas, bona et efficax est ad regimen regni illius vt lex ciuilis, qua sacrum regulatur imperium,

(as is the kinge that regally dothe rule, & that with the muche more libertie, then the king y<sup>e</sup> hath a politique dominion ouer his people) is rather a diminution then an increase of power. For the holie spiritues which are now established in glorie and can not sine doe in power farre excell and passe vs, which haue a delyte and pleasure to runne headlonge into all kinde of wickednes. Now therefore I haue but this one onely question to demaunde of you, whether the lawe of Englands to the studie wherof you exhort me, bee as good and effectuell for the gouernement of that kingdom, as y<sup>e</sup> ciuile lawe, whereby y<sup>e</sup> holie empire is gouerned,

is thought sufficient for y<sup>e</sup> governement of y<sup>e</sup> whole worlde. If with the sounde reasons, and apparaunte demonstrations you resolve me in this point, I will straight yeelde me to the studie of the lawe, without further troubling you with my questions in this matter.

sufficiens arbitrat<sup>r</sup> ad orbis regimē vniuersi. Si me i hoc demonstrationibus congruis indubiū reddideris, ad studiū legis illius illi-  
co me conferam, nec te postulatio-  
nibus meis super his, apli<sup>9</sup> fatigabo.

*That all lawes are the lawe of nature, customs or statutes.* Cap. 15.

**T**he Chauncelour answered saying. You haue well committed to me, moze most worthy prince al that I haue hitherto declared vnto you. Wherefore you are well worthy to haue this doubt openyd wherupon now you haue mooued youre question.

**C**ancellarius memorie tue princeps optime commendasti. que tibi hucusque suggesti, quare et que iam interrogas, meritis es vt pādam.

Scire



## Fortescue in commendacion

Scire te igitur vo-  
lo, qd; oīa iura hu-  
mana aut sūt lex  
nature, cōsuetudinē  
vel statuta q̄ et cō-  
stitutiōes appellā-  
tur. Sed cōsuetudi-  
nes et legis nature  
setētiē postquā in  
scripturā redactē  
et sufficiēti aucto-  
ritate p̄cipis pro-  
mulgatē fuerit, ac  
custodiri iubeātur  
in cōstitutionū si-  
ue statutorū natu-  
rā mutatur, et dein-  
de penalius quā ā-  
tea, subditos p̄ci-  
pis ad earū custo-  
diā cōstrin gūt, se-  
ueritate mādātū il-  
lius, qualis est legū  
ciuiliū pars nō mo-  
dica, q̄ a Romano  
rū p̄cipib⁹ ī mag-  
nis voluminib⁹ re-  
digitur, et cor' auc

pourshal therfore vnder-  
stād yal humane lawes  
are either the law of na-  
ture, or customes, or elles  
statuts, which are also cal-  
led cōstitutions. But cus-  
tomes & y sentēces of the  
lawe of nature after that  
they wers once put i wri-  
ting, & by y sufficiēt auto-  
ritie of y p̄ince published  
and commaunded to be  
kept, were chaūged ito y  
nature of cōstitutions, or  
statuts, and did after that  
more penally, then before  
binde the subiectes of the  
p̄ince to the keepinge of  
thē by the seueritye of his  
commaundemēt. Of this  
forte are the most parte of  
the Ciuile lawes, whiche  
of the Romain p̄inces are  
digested in great volumes  
& by their auctoritie com-  
maūded to bee obserued.

of the lawes of Englande Fo. 37

And not thepe onelye are called by y name of y Ciuile law, but also al the o- ther statutes of eperours. Now then if that among these. iij. wellsprings of all lawe I proue the preemi- nence of the lawe of Eng- land to excell aboue y rest I shal therewith proue the same lawe to be good and effectuall for the gouerne- met of y kingedome. And further if I do shewe it to bee as commodious for the wealth of that Roy- alme as the Ciuile lawes are for the wealth of the empire, then shall I make euident and plain not on- ly that this law is of much excellenye, but also that it is an electe and chosen lawe, aswell as the Ci- uile lawes are: whyche is y thinge y you require

toritate obseruari-  
mādatur. Vnde le-  
gis Ciuilis vt cet'a  
Imperatorū statu-  
ta iā pars illa nomē  
fortita ē. Si igitur  
in his tribus quasi  
ōnis iuris fontibus  
legis Anglię prestā  
tiam probauerim  
prefulgere, legem  
illam bonam esse  
et efficacē ad reg-  
ni illius regimē e-  
tiam compbaui.  
Deinde si eam ad  
eiusdem regni vti-  
litatem, vt leges ci-  
uiles ad imperij bo-  
num accomodam  
esse lucidē ostēde-  
rim, nedū tūc legē  
illā prestantē, sed  
et vt leges ciuiles  
electam (vt tu op-  
tas) etiā patefeci.



## Fortescue, in commendacion

Igitur hec duo ti-  
bi ostendere sata-  
gens, sic progre-  
dior.

Wherefore to the prooofe  
and declaracion of these.  
ij. points thus I prede.

*The lawe of nature in all countreis is  
al one.*

*Cap. 16*

**L**eges Anglię, i  
his q̄ ip̄e facti-  
ūt legis naturę ra-  
tiōe, non meliores  
peioresue sunt in  
iudiciis suis, quā in  
cōsimilib⁹ sūt ōnes  
leges ceterarū na-  
tionū. Quia vt di-  
cit Phūs, v. Ethico  
rū. I⁹ naturale est  
quod apud omnes  
homines eādē hēt  
potentiam, quare  
de ea āplius discep-  
tare nō expeditur.  
Sed quales sūt An-  
glię cōsuetudines  
n̄ sūt et statuta est  
dāmodo p̄scrutādū

**T**he lawes of England  
in those thigs whiche  
they by force of the law of  
natur̄ do ratify & establiſh  
are neiſher better nor wor-  
se in their iudgements thē  
ȳ lawes of al other natiōs  
are in ȳ like cases. For as  
Aristotle in ȳ fifth booke of  
his morall philosophie sai-  
eth. The law of nature is  
ȳ which among al people  
hath like strēgth & power  
Wherefore hereof to rea-  
son any lōger it shall not  
auayle. But nowe hence-  
forth we wil searche oute  
what maner of custōes &  
statut; these of Englad ar  
And

of the lawes of Englande Fo. 38.

And firste the qualytie of et primo cōsuetu-  
those customes wee wyll dinū illarū visitabi  
consider. m<sup>o</sup> qualitates.

The customes of Englande are of most auncient a-  
tiquitie, practised and receaved of v. se-  
uerall nations from one to an o-  
ther by succession. Cap. 17.

**T**he roialme of Eng-  
land was first inhabi-  
ted of y<sup>e</sup> Britōs. Pert  
after thē y<sup>e</sup> Romains had  
y<sup>e</sup> rule of y<sup>e</sup> lande. And the  
again y<sup>e</sup> Britōs possessed  
it. After w<sup>h</sup>o the Sarons  
inuaded it, who chaūging  
y<sup>e</sup> name therof did for Brit-  
tain call it England. Af-  
ter thē for a certain tyme  
the Danes had the domi-  
niō of the Roialme, & thē  
Sarōs again. But last of  
al the Normans subdued  
it, whose discent continu-  
eth in y<sup>e</sup> governmēt of y<sup>e</sup>  
kingdom at this p<sup>r</sup>esent.

**R**egnū Anglię  
primo per Bri-  
tones inhabitatum  
est, deinde per Ro-  
manos regulatum  
iterūq; per Brito-  
nes, ac deinde p<sup>er</sup> Sax-  
ones possessū, qui  
nomen eius ex Bri-  
tania in Angliam  
mutauerūt: ex tūc  
per Danos idē reg-  
nū parūp dñatū  
est, et iterū p<sup>er</sup> Sax-  
ones, sed finaliter  
per Normannos  
quorum propago  
regnum illud op-  
tinet in presenti,



### Fortescue, in commendacion

Et in omnibus nationū harum et regum earū tēporibus, regnū illud eisdē quibus iā regitur consuetudinibus, continue regulatū est. Quę si optime nō extitissent, aliqui regū illorū iustitia, ratione, vel affectione concitati, eas mutassent aut omnino deleuissēt, et maxime Romani: qui legib⁹ suis quasi totū orbis reliquum iudicabant. Similiter et alij regū predictorū, qui solum gladio regnū Anglię possiderunt, quo et potētia simili ipsi leges cius exinanisse va-

And in al y times of these seuerall nations & of theire kinges this roialme was still ruled withe the selfe same customes that it is nowe gouerned witheall. Whiche if theye had not beene right good, some of those kynges moued eyther with Justice, or with reason, or affection would haue chainged them, or els altogether abolished the: and specially the Romans who did iudge all the rest of the world by their owne lawes. Like wisse would other of the foresaide kinges haue done whiche by the sword onelye possessing the roialme of Englande myghte by the lyke power and auctoritey haue ertinguisshed the lawes thereof.

And

of the lawes of Englande Fo. 39.

And touchynge the anty-  
quitie of the same neither  
are the Romaine Ciuille  
lawes by so longe con-  
tinuance of aſcient times  
confirmed noꝝ per the la-  
wes of the venetians,  
whiche aboue al other are  
repoꝝted to be of moſt an-  
tiquity: ſoꝝ ſomuch as their  
Iſlande in the beginnynge  
of the Britones was not  
then inhabited, as Roome  
then alſo vnbuilted: ney-  
ther the lawes of any pa-  
rtye nation of the world  
are of ſo olde and auncy-  
ent yeares. Wherefore  
the contrarie is not to be  
ſayde noꝝ thoughte, but  
that the Englyſhe cuſ-  
tomes are verye good,  
yea of all other the verye  
beſt.

luerunt. Neq; ve-  
ro tantorum tem-  
porū curriculis, le-  
ges Ciuiles in quā-  
tum Romanorum  
inueterate ſunt,  
neque venetorū  
leges quę ſuper a-  
lias antiquitate di-  
uulgantur quorū  
tum inſula in initi-  
o Britonum inha-  
bitata non fuit, ſi-  
cut nec Roma co-  
dita, nec vllorum  
mundi regnorum  
deicolarum leges  
tanto ſuo inolite  
ſunt, quare non  
bonas, immo non  
optimas eſſe an-  
glorum conſue-  
tudines, ſicut non  
dicere, ita nec ſuſ-  
picari fas eſt.

Here



## Fortescue, in commendacion

*¶ Here he sheweth with what grauitie statuts are made in Englande. Cap. 18.*

**S**Tatuta tunc  
Anglorum, bo-  
na sint nec ne so-  
lum restat explo-  
randum. Non e-  
nim emanant illa  
a principis solum  
voluntate vt leges  
in regnis que tan-  
tum regaliter gu-  
bernatur, vbi qua-  
doq; statuta ita co-  
stituētis, pcurat co-  
modū singulare,  
qd' in ei⁹ subdito-  
rū ipa redūdāt dis-  
pēdiū et iacturam.  
Quādoq; etiā i ad-  
uertentia princi-  
pū huiusmodi, et  
sibi consulentium  
inertia, ipsa tam  
inconsultē edūtur.

**N**ow whether the sta-  
tuts of England bee  
good or not, that onely re-  
mainethe to be discussed.  
For they procede not onely  
from the princes plea-  
sure as do the lawes of  
those kingdomes that are  
ruled onely by regal go-  
uernement, where some-  
tymes þe statuts do so pro-  
cure the singular commo-  
ditie of the maker, that  
they rebounde to the hin-  
derance and dammage  
of his subiectes. Somety-  
mes also by the negly-  
gence, and oversight of  
such princes, & their sleighte  
regard, respecting onely  
their own comodities they  
are so vnadvisedly made,  
that

of the lawes of England. Fo 40

that they are moze wooz-  
thy to haue the name of  
disorders, then of well or-  
dered lawes. But sta-  
tutes cannot thus passe  
in Englande, forsomuch  
as they are made not on-  
lye by the Princes plea-  
sure, but also by the assent  
of the whole royalme: so  
that of necessitie they  
must procure the wealth  
of the people, and in noe  
wise tende to theire hy-  
nderaunce. And it cannot  
otherwise bee thoughte,  
but that they are replen-  
ished with muche wytte  
and wysedome, seeynge  
they are ordayned not  
by the deuise of one man  
alone, or of a hundrethe  
wise counsellors onelye,  
but of mo then thre hun-  
dred chosen menne,

quod corruptela-  
rum nomina po-  
tiusquam legum,  
illa merentur. Sed  
non sic Anglię sta-  
tuta oriri possunt,  
dum nedum pri-  
cipis volutate, sed  
et totius regni as-  
sensu ipsa condū-  
tur, quo populi le-  
suram illa efficere  
nequeunt, vel nō  
eorum comodum  
procurare. Pru-  
dentia etiam & sa-  
pientia, necessario  
ipsa esse referta  
putandum est, dū  
non vnus, aut cē-  
tum solum con-  
sultorum viro-  
rum prudentia,  
sed plusquam tre-  
centorum elec-  
torum hominum  
quali



## Fortescue in commendacion

quali numero oli much agreeing with the  
senatus Romano number of the auncient  
rum regebatur, ip senatoures of Roome: as  
sa edita sūt, vt hij they that know the fashi-  
qui parliamenti on of the Parliament of  
Anglię formā, cō- Englande, and the order  
uocationis quoq; and maner of callyng the  
eius ordinem, & same together are hable  
modum nouerūt more distinctly to declare.  
hec distinctius re- And if it fortune these  
ferre norūt, Et si statutes beeing deuyled  
statuta hec, tanta with suche greate solem-  
solēnitate & pru- nitie and witte, not to fal  
dencia edita, effica out so effectuallye as the  
cie tantę quantę intent of the makers byd  
cōditorūcupiebat wythe, they may be quick  
intentio, non esse lye resourmed, but not  
cōtingant: cōcito wythout the assent of the  
reformari ipsa pos commons and states of  
sunt, et nō sine cō the realme, by whose au-  
munitatis & pro- toritie they were first de-  
cerū regni illius af uyled: Thus moste wooz-  
fesu, quali ipsa pri- thy Prince you do plain-  
mitus emanarunt. lye vnderstande all the  
patēt igitur iā tibi kyndes of the lawes of  
princeps, legū an- Englande.

of the lawes of England. Fo 41

And touching theire qualities, as whether they be good or noe, you shalbee able to measure that as wel by your owne witte, as by comparinge them with other lawes. And when ye shall finde none in the whole worlde of lyke excellency, you must of force grant them to bee not onely good, but also on youre behalfe most to bee embraced.

earum quoq; qualitates, vt si bonę ipsę sint, metiri tu poteris prudentia tua, comparatione etiam aliarum legum, & cum nullo tam tantę prestantię in orbe reperies, eas nedum bonas, sed tibi optabilissimas fore necessario confiteberis.

¶ Here he deuyseth a meane howe to knowe the diuersitie betwene the Ciuile lawes and the lawes of England.

Chap. 19.

¶ Ife only doubt whether your mind is troubled, remaineth now behide vndiscussed. And y<sup>t</sup> is this. Whether as y<sup>e</sup> ciuile law, so likewise y<sup>e</sup> law of

Solum iam vnũ de his quibus agitur animus tuus restat explanandũ, vz an vt Ciuiles, ita et ang. leges frugi

¶.ii.



## Fortescue, in commendacion

frugi sint et effica-  
ces, isti Anglię re-  
gno, vt illę impe-  
rio, etiam et accom-  
mode iudicari me-  
reantur. Compa-  
rationes vero pri-  
ceps, vt te aliquan-  
do dixisse recolo  
odiosę reputan-  
tur, quo eas ag-  
gredi non delec-  
tor, tu an equalis  
sint ambę leges  
meriti, vnaue al-  
tera celsius preco-  
nium mereatur,  
non ex meo iudi-  
tio, sed ex his in  
quibus earum dif-  
ferunt sententię,  
efficatius carpere  
poteris argumen-  
tum. Nam vbi cõ-  
ueniunt Leges  
ambę, æqualis  
laudis ipsę sunt,

Englande bee fruytfull  
and effectuell, these for  
the royaltie of England  
as the other for the Em-  
pire, and whether they  
may worthely bee iudged  
fytte and meete. Compa-  
risons, most noble prince  
(as I remember I harde  
you ones saye) are comp-  
ted odious. Therefore  
I am lothe to meddle w<sup>th</sup>  
them. But whether they  
bee bothe of lyke worthi-  
nes, or that the one de-  
serueth a higher com-  
mendation then the other  
heareof you may gather  
a pythier argument out  
of those pointes, wherein  
theire sentences do differ  
then by my declaracion.  
For wher both the lawes  
doo agree, the prayse of  
them ys equall.

But

of the lawes of England. Fo. 42

But in cases where they disagree, the woorthyer lawe is moſte prayſe, woorthye. Wherefore wee will now propound ſome ſuch caſes, to the intent you maye indifferentlye ponder and weye whether of theſe doothe moſte iuſtlye and better define the ſame. And firſt wee will putte furthe examples of caſes of much weight.

ſed in caſibus ubi ipſe diſſentiunt, preſtantioris legis preconia digna penſatione refulgent. Quare caſus huiusmodi aliquos iam in medium proferemus ut quę legum illarum eos iuſtius meliusq; diffiniat, equa lance valeas ponderare, et primo ex caſib⁹ maximi pōderis exēpla preponamus.

¶ The firſt caſe wherein the Ciuile lawes, and the lawes of England do differ. Ca. 20

Iꝑ they that haue a matter of cōtrouerſie depending before a Iuge cōe to ꝑ cōteſtation of the ſuite vpon the matter of ꝑ deed which ꝑ lawyers of England call ꝑ iſſu of ꝑ plea:

Si coram Iudice cōtendētes, ad litis pueniant conteſtationē ſup materia facti, quā legis Anglię periti exitū pl'iti appell'. Exitus huiusmodi veri-

ꝑ. iiii.

tas



## Fortescu, in commendacion

tas p leges Ciuiles  
testiū depositionē  
pbari debet, ī qua  
duo testes idonei  
sufficiunt, Sed per  
leges Anglię, veri-  
tas illa nō nisi. xij.  
hominū de vicine  
to vbi factū huius  
modi supponitur  
sacramēto, Iudici  
constari poterit.

Queritur igitur,  
quis horū duorū  
pcessuū tā diuer-  
sorū rationabilior  
censeri debeat &  
efficacior, ad veri-  
tatē quę sic queri-  
turreuelādā. Quia  
lex q̄ eā certi⁹ me-  
liusq; ostēdere po-  
test, prestantior in  
hoc est lege altera  
quę nō tātę effica-  
cię est et virtutis,  
quare in huius rei  
indagine sic pce-  
dimus.

the truth of such an issue  
by the ciuile lawes must  
be tryed by the deposition  
of witnesses, wherein.ii.  
allowable witnesses are  
sufficiēt. But by y lawes  
of England the truthe of  
the matter cannot appier  
eident to the Iuge wout  
y othes of xii. men neigh-  
bours to the place where  
such a dede is supposed to  
be done. For we therefore  
the questiō is whether of  
these two, so dyuers pro-  
cedinges ought to be este-  
med moze reasonable & ef-  
fectual for the opening of  
the trueth, which thus is  
sought for. For the law y  
can moze certainly & bet-  
ter shewe the truthe, is in  
this behalfe of moze excel-  
lency than y other y is of  
lesse efficacy & force. wher-  
fore in the searche of this  
matter thus we pceede.

of the lawes of England. Fo 43

¶ Here are set furth the inconueniences proceeding  
of the law, which no other wise then by wit-  
nesses admitteth trials. Cap. 21.

**B**y the Ciuile lawes y  
party which in y issue  
holder the affirmatiue  
must bring furth witness  
which he himselfe at hys  
own pleasure shall name  
But the negatiue cannot  
be proved directli, though  
indirectly it may: For the  
hability of him is thought  
to be very smal & weake,  
and his witte much lesse,  
which among al the men  
that he knoweth is not a-  
ble to fynde it. so boide of  
conscience & trueth, which  
for dreade, loue or profit  
will not bee readye to  
gainesaye all truth.  
Suche then maye he pro-  
duce for witnesses on  
hys syde.

**P**ER leges ciuiles  
pars, quę in litis  
contestatione af-  
firmatiuā dicit, te-  
stes pducere de-  
bet, quos ipsemet  
ad libitū suū no-  
minabit. Negatiua  
autē pbari nō po-  
test, v̄z directē, li-  
cet possit p obli-  
quū. Exilis quippe  
credit' esse potētię  
minoris quoq; in-  
dustrię, qui de om-  
nibus quos nōscit  
hoīb⁹, duos repire  
nequit ita cōsciē-  
tia & veritate va-  
cuos, vt timore, a-  
more, vel comod'  
oī velint cōtraire  
verit'. Hos potest  
tūc ipse ī testiū p-  
ducere ī causa sua



### Fortescu, in commendacion

et si contra eos  
pars altera dicere  
velit, vel contra eo-  
rum dicta, non sepe  
continget, eos eorum  
quoque mores aut  
facta, apud contra-  
dicere volente ag-  
nosci, ut ex eorum  
feditate et viciis  
testes illi possit re-  
pbari. Et dum eorum  
dicta affirmatiua  
contineant, non facile  
poterunt illa, per cir-  
cunstancias aut obli-  
qua alia im pbari.  
Quis tunc poterit  
suorum aut sui ipsi,  
sub lege tali viue-  
re securus, dum cui-  
libet sibi inimicari  
volenti lex tale pre-  
stat subsidiu? Et  
qui iniqui duo ta-  
nti cauti sunt, quod fac-  
ti de quo ipsi exa-  
minabuntur in iudicio

And if the other partpe  
would object any thinge  
against them, or their sai-  
enges, it chanceth not e-  
uer y they & their condici-  
ons & doinges are knowe  
to y contrarie partpe: so y  
by reason of theire foule  
lives & vicious behauiour  
such witnesses might bee  
reprooued. And while  
their saengens cōteine the  
affirmatiue, it shalbe ve-  
ry harde to reprooue them  
by circumstances or any o-  
ther indirect meanz. Who  
then shalbe habile to liue  
in suertie of his goodes or  
of himselfe vnder suche a  
law, y ministreth such aid  
to euery busy body y lus-  
teth to trouble another?  
And what is. wicked men  
are so vnwarie & vncircu-  
spect, which touching the  
deede wherof they shalbe  
examined in iudgement,

will not beefore they are called furth for witnesses secretly imagine and devise a fourme & fassio ther of, & frame thereunto all circumstances euen suche as must needes haue ben so, if y thing had ben true in dede: For y children of this world (saith y lord) are wiser then y children of light. So y most wicked Iesabel brought furth ii. witnesses of y children of Beliall in iudgement agaisst Nabot, wherby he lost his life, & king Achab her husbände obtayned the possession of y vyneyarde. So the most chaste matrone Susāna should haue dyed for aduoutrye by the wytnes of twoe olde dotardes being iudges, if the lord hadde not meruelouslye deliuered

nō antequā in testes pducatur, occulte fingāt imaginē et figuram, cōponāt quoq; eidē omnes circumstantias, quales sibi affuissent, si illud in veritate cōstitisset Prudentiores nāq; vt dicit dominus sunt filij huius mūdi, quam filij lucis Sic Iesabel scelera tissima, testes duos filios belial, cōtra Nabot in iuditio produxit, quō ipse vitam perdidit, et Achab rex eius vineam possidebat. Sic duorum fenū etiam Iudicum testimonio, mortua fuisset pro adultorio vxor castissima Susanna, si non eam



## Fortescue, in commendacion

eā miraculose liberasset dñs inexco-  
gitabili prudētia,  
quam a natura nō  
habuit puer iuni-  
or nōdū etate p-  
uectas. Et si ipsos  
depositionē sua va-  
ria cōuicerat puer  
ille esse falsarios,  
quis nisi solū dñs  
nouisse poterat e-  
os in dictis suis ta-  
liter variaturos?  
dū non de arboris  
natura sub qua im-  
putatū facinus fie-  
bat, lex aliqua eos  
artabat reminisci.  
Quia testes scele-  
ris cuiusq;, cōside-  
rare nō putāt oīa  
vmbracula & ce-  
tera vicina illi fac-  
to, q̄ ad aggrauati-  
onē vel detectiōnē  
criminis illius mi-  
nime operantur,

her by a wonderfull feate  
of p:udence, which of na-  
ture the yong child hadde  
not being yet vnder age.  
And though ȳ same child  
by theire altering & doub-  
ling in their depositions  
did cōuict them to be false  
wretches, yet whoe (saue  
only the lord) could haue  
known that in their sai-  
enges they woulde thus  
haue disagreed? Seeinge  
there was no lawe ȳ did  
moue thē to haue in remē-  
brance what kind of tree  
it was, wherunder ȳ fact  
was supposed to be done.  
For the witnesses of eue-  
ry wicked deede are not  
thought to consider al cir-  
cūstaunces apperteining  
to ȳ same, beig such as do  
nothig help to ȳ aggraua-  
tiō & detectiō of ȳ faulte.  
But

of the lawes of England Fo45.

But while those wycked  
iudges willingly swea-  
ring did alter touching y  
kindes of the trees, the tre  
owne wordes proued the  
to be false verlets. **W**her  
fore thei worthely suffered  
the same punishemēt the-  
selues. **N**ou also most gra-  
tious prync do know how  
y lately maister J. Fring  
after y he had continued  
thre yeares in the order  
of priestehood was com-  
pelled by the deposition  
of those wicked persones  
whiche witnessed that he  
had before he was made  
prieste betrouthed hym-  
selfe to a certeine yonge  
woman, to forsake the ho-  
lye order of priestehood,  
and to marrye the same  
womanne. **W**hy the  
whome when hee hadde  
lyued fourtene yeares,

Sed dū de arborū  
specieb<sup>9</sup>, iudices il-  
li nequā vltro de-  
ponētes variabāt,  
eorum dicta ipsos  
veritatis fuisse pre-  
uaticatores demō-  
strabāt, quō et tali  
onis penā merito  
incurrerūt. Nosti  
et tu princeps di-  
uine qualiter iam  
tarde, magister Io-  
hānes Fringe, qui  
postquā annis tri-  
b<sup>9</sup> sacerdotali fūc-  
tus est officio, duo-  
bus iniquorū de-  
positione, qui eū  
ātea iuueculā quā  
dā affidasse testati  
sūt, sacrū presbite-  
rat<sup>9</sup> ordinē reliq̄re  
cōpuls<sup>9</sup> est, et ma-  
trimoniū cū femi-  
na illa cōsumare.  
Cū qua, postquā  
annis. xiiij. morat<sup>9</sup>  
fobo-



**¶ Fortescue, in commendacion**

sobolem septimā and hadde beegotten. bis-  
fuscitauerat, de- childzen of her, at y laste  
mum de crimine beeinge conuicted of trea-  
lese maiestatis in son conspired againste  
tuam celsitudinē your highnes, hee con-  
coniurato conuic- fessed befoze all the peo-  
tus, subornatos fu- ple euen at the very point  
isse testes illos, et of deathe that those wit-  
falsum dixisse tes- nesses were hiered, and  
timonium, in mor- that theire depositions  
tis suę articulo co- were false. And thus ma-  
ram omni popu- ny tymes are iudgemētz  
lo fassus est. Qua- peruerterd by the meane  
liter, et sepe per- of false witnesses, yea &  
uerterd iudicia, falso that vnder the very best  
rum testium me- Judges as vnto you it is  
dio, etiam sub op- not vnhearde, nor to the  
timis iudicibus, nō woꝛlde vnknown, while  
est tibi inauditum this wickednes (the moze  
nec incognitum is the pittie) is often com-  
mundo, dum sce- mitted.  
lus illud (proh-  
dolor) creberime  
committatur.

**¶ Of the crueltie of rackinges. Cap. 22**

**Therefore**

**T**herefore the law of Fraunce in offences criminall whereupō deth dependeth is not content to conuict the party accused by witnesses, least by the testimony of false persons innocent blood should be condēned. But that lawe chooseth rather to tormēt such offenders w<sup>th</sup> racking, vntill they theselues confesse their owne fault, rather then by <sup>h</sup> deposition of witnesses, which many tymes through wicked affections, & sometimes by <sup>h</sup> subornation of euil mē, are moued to perurie. Upō this & suche like cautels & respectes offendours & suspect p<sup>er</sup>sons are in that royaume w<sup>th</sup> so many kyndes of rackynges tourmētēd that my penne abhorreth to put the in writting.

**N**on igitur contenta est lex Francie, in criminalibus vbi mors imminet, reū testibus cōvincere, ne falsidicorum testimonio sanguis innocens condēnetur. Sed mauult lex illa reos tales torturis cruciari, quousq; ipsi eorū reatum confiteantur, quā testiū depositione, qui sepe passionibus ūiquis, & quandoq; subornatione malorū ad piuria stimulat. Quali cautione & astutia, criminosi etiā & de criminib<sup>9</sup> suspecti tot torturarū ī regno illo generib<sup>9</sup> affliguntur, quod fastidet calam<sup>9</sup> caliteris designare.



## Fortescue, in commendacion

Quidam vero in equuleis extenduntur, quô eorum rumpuntur nerui, et venę in sanguinis fluenta prorumpūt. Quorundam vero, diuersorum ponderum pendulis dissoluuntur compages et iuncturę, et quorundam gaggantur ora, vsque dum per illa, tot aquarum infundantur fluentia, vt ipsorum venter montis tumescat more, quo tunc venter ille fossorio vel simili percussus instrumento, per os aquam illam euomet ad instar Balenę

For some are stretched out vpon a horse in suche wise that theire synowes breake, and theyre veines goushe out with streames of bloude. Agayne other some haue dyuers greate weightes hanged at their feete: whereby their limmes and ioyntes are dissolved and vnloosed. Some also haue their mouthes so long gagged open, till such abundance of water bee powered in that theire belly swelleth lyke a hill or a tonne, to the intent that then the bellye being persed with some boring instrument, the water may yssue and spoute out thereat and at the mouth streame wise, not much vnlike a whale  
which

which when he hath sup-  
ped bype and swallowed  
downe a great quantitie  
of sea water, with her  
ringes and other small  
fishes, gusheth out the same  
water againe as high as  
the toppe of anye Wyne  
apple tree. My penne is  
both weary & ashamed to  
rehearse the outragious-  
nes of torments deuised i  
this behalfe. For the num-  
ber of them is so greate,  
that it can scant well bee  
noted in a whole skinne  
of parchement. More o-  
uer the Ciuile lawes for  
want of witnesses doe  
fetche out the truthe by  
suche rackinges. And so  
doe dyuers other Coun-  
tries too. But whoe is so  
harde harted, whiche be-  
ynge once released out  
of so cruell a Racke,

que cum halecib<sup>9</sup>  
et aliis pisciculis  
mare absorbuit, a  
quam despumat,  
ad altitudinem ar-  
boris pini. Piget  
(proh pudor) iam  
penna exquesito-  
rum ad hec cruci-  
atuū enarrare im-  
mania. Nam eorū  
variatus numerus  
vix notari pote-  
rit magna in me-  
brana. Leges  
etiam ipse Ciuiles  
deficiente testium  
copia, in criminali-  
bus, veritatem cō-  
similib<sup>9</sup> extorquet  
tormentis, quali-  
ter et faciunt eti-  
am quam plurima  
regna. Sed quis tā  
duri animi est, qui  
semel ab atroci tā  
to torculari laxat<sup>9</sup>  
non



### Fortescue, in commendacion

non potius innocens ille omnia fateretur scelerum genera, quam acerbitatem sic experti iterum subire tormenti, et non semel mori mallet, dum mors sit vltimum terribilium, quam tocians occidi, et totidem gehennales furias morte amariore sustinere? Et nonne princeps tu nouisti criminofum quēdam, qui inter tormenta huiusmodi, militem nobilem, probum, et fidelem, de prodicione quadam super qua, vt asseruit ipsi duo infimul coniurarunt,

thoughe he bee innocent and faultles, woulde not yet rather accuse himselfe of all kindes of offences, then agayne to commytt himselfe to the intollerable crueltie of the torment ones proued: and hadde not rather dye at ones (seeinge deathe ys the ende of all miseries) then so often to be kylled, and to sustaine so manye hellyshe furies, paynfuller then death it selfe: And didde not you moſte woorthye prince knowe a certeine offendour which in suche tourmentes accused a woorthypfull, yea a ryghte good and faythfull knight of treason, wherein, as hee saide they twoe hadde conspired together,

which

whiche treason he himself  
 beinge released from the  
 racke, after ward attemp  
 ted and accomplisshed, ther  
 by to acquite himself s<sup>o</sup>  
 comynge to the torture a  
 gayne. But at the last by  
 mcane of those tourmēts  
 beinge so meamed in his  
 bodie, that therby he was  
 brought in despaire of his  
 lyfe and therupon recea  
 uynge his howsell, he the  
 swoze by y<sup>e</sup> same bodie of  
 the lord, & by the deathe  
 whiche he beleueed that  
 he should furthwith dye,  
 that the said knight was  
 innocent and giltyles in  
 all thinges whereof he  
 had accused hi, howbeit  
 the paines wher i he was  
 at the tyme of that his ac  
 cusacion he said were so  
 extreame, that rather the

accusant, quod et  
 constanter post  
 modum ipse fecit  
 a torturis illis re  
 laxatus, ne iterū  
 eadem tormenta  
 ipsa ipse subiret.  
 Sed demū cū ex  
 penis illis lesus vs  
 que ad mortis ar  
 ticulum infirma  
 retur, vltimū quo  
 que viaticū, chris  
 ti videlicet corp<sup>o</sup>  
 sup<sup>o</sup> sisset: Iurauit  
 tunc super corp<sup>o</sup>  
 illud, et per mor  
 tem quam tunc  
 protinus credidit  
 se passurū, militē  
 illū inocētē fuisse  
 et imunē de ōni  
 b<sup>o</sup> in q<sup>o</sup> eū accu  
 sauit, tamē ait pe  
 nas i q<sup>o</sup> ipse tē  
 pore delationē suę  
 fuerat, ita atroces



### Fortescue, in commendacion

extitisse, qd prius-  
quā eas iterū ex-  
periretur, etiā eū-  
dē militē ille ite-  
rū accusaret, simi-  
liter et patrē p̄pri-  
ū, licet tūc ī mor-  
tis limine quā nō  
credidit se posse  
euadere, fuerit cō-  
stitut⁹. Nec vero  
ipse mortē quam  
tūc metuit, euasit  
Sed demū suspē-  
s⁹, tēpore mortis  
suæ ipsū militem  
purgauit ab ōni  
crimīe de quo du-  
dū defaūit Talit⁹  
proh dolor et quā  
plures alii miseri  
faciūt, nō verita-  
tis causā, sed solū  
vrgētib⁹ torturis  
artati, qd tunc cer-  
titudinis resultat,  
ex confessionibus  
talit⁹ cōpressorū?  
Ceterū si innocēs

he woulde feele the same  
agaīe, he would no sticke  
to accuse the said knight  
agayne, yea & his owne  
father to. This he said be-  
yng then at ȳ verie poit  
of deathe, whiche he be-  
leued he could not then es-  
cape. So noz he escaped  
not the deathe whiche he  
then feared. But after-  
ward beyng hanged, at  
the tyme of his deathe he  
cleared the said knight of  
all crimes wherof before  
he had defamed hi. Thus  
(o pitifull case) do many  
other wretcheis not for ȳ  
truethes sake, but forced  
thereunto by the extremi-  
tie of tourmentes, And  
what certentie then can  
arise of the confessions of  
miserable tourmēted per-  
sons. But if some innocēt  
bodie haupnge his mynd  
fired

upon eternall saluation, would in such a Babylonick fornice with the little childre blesse & magnifie the lord, and not lye to the damnation of his owne soule, in y<sup>e</sup> iudge pronounceth him vngiltie, doth not that iudge by the selfe same iudgement iudge himselfe guiltie of all the crueltie & paines wherewith he hathemented the innocent. Howe cruel is such a lawe whiche in that it can not condempne the speli innocent, condempneth the iudge. Suerly suche a custom is not to be accompted a lawe, but rather the bieghe waye to the deuill. O iudge, in what schole hast thou learned to be present, while the offender is tourmented?

Fo.

G.ii.

aliquis nō immemor salutis eternę in huiusmodi babilonis fornace, cū trib<sup>9</sup> pueris benedicat dñm, nec mētiri velit in pñiciē aīę suę. quo Iudex eū pñūciat innocētē, nōne eodē iudicio iudex ille, seipm reum iudicat, ōnis seuicioe et penarū quib<sup>9</sup> inocētē afflixit? O quā crudelis est lex talis, q̄ dū inocētē dāpnare nequit iudicē ip̄a cōdēpnat? Vere nō lex ritus talis esse phibetur sed potius semita ip̄e ē ad iehēnā. O iudex q̄b<sup>9</sup> i scholis didicisti, te p̄fētē exhibere, dū penas luit reus executiones quippe iudicio



## Fortescue, in commendacion

iudiciorum in cri-  
minosos, per igno-  
biles fieri cōuenit  
Nā carū actores  
infames solent ef-  
fe ipso facto, quo  
et ipsi deinde ad  
iudicialem apicē  
redduntur indig-  
ni, non enim per  
angelos, sed per  
demonēs exequi  
facit dñs iudicia  
sua reddita indāp-  
natos. Nec reuer-  
in purgatorio cru-  
ciant animas quā-  
uis predestina-  
tas ad gloriam an-  
geli boni, sed ma-  
li. Maligni etiam  
hōies sunt, p quos  
dominus in hoc  
mundo, miseris  
tribuit malum pe-

For the execution of iud-  
gements bpō offēdours  
ought to be dōe by mē of  
base degre: p doers wher  
of doo purchase to them-  
selves p̄sent infamie by  
the deede doyngē, in so-  
much that euer after they  
are dishabled from the p̄-  
ferment of a iudge. Pet-  
ther dothe the lordē god  
execute his iudgements  
p̄nounced ageynst the  
dampned by angells, but  
by deuylls. ¶ As and in  
Purgatorie the soules  
there remaynige, though  
they be predestinate too  
glorie, yett are they not  
tourmented of good an-  
gells, but of euyl. Those  
also are euyl and wyck-  
ed men by whome the  
lordē in this woꝛlde doth  
minister to wretched sin-  
ners

of the lawes of Englande Fo. 50

ners deserued punisshment  
For when god said i the  
xii. chapter of the third  
booke of kynges: Who  
shall deceaue Achab. it  
was an euill spirite that  
answered: I will be a  
lying spirite in y<sup>e</sup> mouth  
of all his prophetes. For  
it becomed not a good spi  
rite to take vpon him the  
executiō of suche thinges  
thoughe this iudgement  
proceeded from the lord  
that Achab shoulde be de  
ceued by a lye. But the  
iudge peradventure wyll  
saye: I withe myne owne  
handes did nothinge in  
these tourmentes But  
what differth it whether  
one be a doer w<sup>th</sup> his owne  
handes, or els be present  
at the doyng, and the

ne. Nā dum dix  
erat deus iii. Re  
gum. xxii. Quis  
decipiet michi A  
chab: malus erat  
spiritus ille qui  
respondit. Ego  
ero spiritus men  
dax in ore omniū  
prophetarum ei  
us Non enim de  
cuit spiritum bo  
num exequi talia,  
licet a domino  
prodiit iudicium  
quod Achab me  
dacio deciperet.  
Sed dicit iudex  
forsan. Ego nihil  
egi manibus me  
is in cruciatibus is  
tis. Sed quid re  
fert propriis face  
re manibus, an  
presentem esse et  
quod

C.iii.



### Fortescue, in commendacion

quod, factum est  
mandato suo ite-  
rum atque iterū  
aggrauare: solū  
magist' nauis ē q̄  
eam ducit ad por-  
tū, licet eius man-  
dato alii agitent  
prorā, Credo qd,  
vuln<sup>9</sup> quo sautia-  
tur anim<sup>9</sup> iudicis  
penas huiusmodi  
infligentis nun-  
quaz in cicatrice  
veniet, maxime  
dum recolit acer-  
bitatem penarū  
miseri sic afflicti.

thinge that is done to  
erasperate hit by his com-  
maundement. It is onely  
the maister of the shippe  
that bringeth it to h<sup>e</sup> ha-  
ue, though by his coman-  
dement an other bee the  
stiresman & beleue that  
the wounde wherewith h<sup>e</sup>  
mynde of the iudge thus  
tourmentinge any man  
is plaged, wyl never  
be healed ageyne special-  
ly while he remembreth  
the extremitie of h<sup>e</sup> paines  
susteyned by the poore  
wretche i those miserable  
tourments

*Here he sheweth that the Ciuile lawe oft fayleth  
in doinge of Iustice. Cap. 23.*

**P**Reterea, si ex  
contractibus,  
illatisue iniuriis,

**D**iscover if by reaso  
of bargaynige, or by  
sufferinge of iniuries, or  
by

of the lawes of Englande. Fo. 31

by title of inheritaunce right  
do accrete to a man to  
pleade in iudgement, if  
there be no witnesses or  
if such as were witness-  
es be deade, the plaintiff  
must needs lett his action  
fall, except he be habile to  
proove his right by inevi-  
table conjectures, whiche  
is seldome seene. **W**her-  
fore concernynge lordes  
shippes and other posses-  
sions ruled by the civile  
lawe and in all actions  
fallynge vnder the same  
lawe the actions of the  
plaintifes for wante of  
witnesses many tymes  
are choked, so that skant  
the halfe parte of them at-  
teyneth to the desired  
ende. **W**hat maner of

vel hereditatis ti-  
tulo, i<sup>o</sup> accreuerit  
homini agēdi in  
iudicio: si testes  
non fuerint, vel si  
qui fuerint moriā-  
tur, succumbet ip-  
se agens in causa  
sua, nisi ius suū p-  
bare valeat inevi-  
tabilib<sup>9</sup> coniectu-  
ris, quod facere  
crebro non conti-  
git. Quare de do-  
miniis et aliis pos-  
sessionibus iure ci-  
uili regulatis, simi-  
liter et in omnib<sup>9</sup>  
actionib<sup>9</sup> cadēti-  
b<sup>9</sup> sub eodē iure,  
actiones agētū p-  
defectu testium  
quā pluries suffo-  
catur, ita qd. earū  
vix p<sup>o</sup> media op-  
tatū finē sortia-  
tur qualis tūc est

**G. llll.** lex



### Fortescue, in commendacion

lex huiusmodi, q̄  
iniuriatis taliter  
deficit in iusticia  
reddēda? dubito  
an iusta vocari  
mereatur, quia in  
eadem lege scribi  
tur, quod Iusticia  
vnicuique tribuit  
quod suum ē, qd  
nō faciat lex talis

lawe then is this whiche  
to them ȳ susteyne wrōg  
thus faileth in yeeldinge  
Justice? I doubt whether  
it deserue too bee called a  
iuste lawe, because in the  
same lawe it is wryten,  
that Justice rendreth too  
euerye mā that which is  
his owne. But this can  
not such a lawe doo.

*Here hec declareth how counties are deuided, and  
shierieffs chosen.*

**E**xposita iā for-  
ma qua leges  
Ciuiiles de verita-  
te facti in iudicio  
deducti iudicem  
erudiunt, super-  
est vt modū quō  
leges Anglię hu-  
iusmodi facti eli-  
ciunt veritatem  
etiam doceamus,

**N**ow that we haue o-  
pened after what  
maner the Ciuille lawes  
do enfourme a iudge of  
the truthe of a matter  
brought into iudgement,  
it is consequent to declare  
by what meanes the  
lawes of Englande doo  
boulte out the trueth of  
suche a matter. For the

of the lawes of Englande Fo. 52

orders of bothe the lawes  
 beyng layde together,  
 the qualities of the bothe  
 wyl moze playnely ap-  
 pere: forsomuche as the  
 philosopher sayeth that  
 contraries placed one by  
 an other wyl shewe the  
 selves moze evidently.  
 But herein after the ma-  
 ner of oratours in steade  
 of a prohemie, it shall not  
 bee amysse that we open  
 certen thinges before, the  
 knowlege whereof shall  
 geue light too thinges  
 whiche heareafter shall  
 come in talke wherefore  
 thus we doo proceede.  
 The royalme of En-  
 glande is deuised into  
 counties, as the royalme  
 of Fraunce is into Bay-  
 lywks, so that in En-  
 glande ther is no place

Nam ambarum  
 legum formulis  
 contiguè positis,  
 qualitates earun-  
 dem lucidius emi-  
 nebunt cum di-  
 cat Philosophus,  
 quod opposita  
 iuxta se posita ma-  
 gis apparent: Sed  
 in hoc oratorum  
 more (prohemii  
 loco) quedam p-  
 narrare congru-  
 et, quorum agni-  
 tione, deinde trac-  
 tando clarius pa-  
 tere queant, qua-  
 re sic procedim⁹.  
 Regnum Anglię  
 per comitatus, vt  
 regnum Fraun-  
 cię per balliuatus  
 distinguitur, ita  
 vt non sit locus  
 in Anglia, quę nō  
 sit



### Fortescue, in commendacion

fit ifr' corp<sup>9</sup> alicu  
i<sup>9</sup> cōitat<sup>9</sup>. Cōitat<sup>9</sup>  
quoq; diuiduntur  
in Hūdreda, que  
alicubi Wapen  
tagia nuncupan-  
tur. Hundreda ve-  
ro diuidūtur per  
villas, sub quarum  
appellatione con-  
tinentur et Burgi  
atque Ciuitates.  
Villarum etenim  
metæ, non muris,  
edificiis, aut stra-  
tis terminantur,  
sed agrorū ambi-  
tubus, territoriis  
magnis, hamiletis  
quibusdā, et mul-  
tis aliis, sicut aqua-  
rū, boscorū, et vas-  
torū terminis, que  
iam non expedit  
nominibus desig-  
nare, q̄a vix in an-  
glia est locus ali-

that is not with in the bo-  
die of some countie. Coun-  
ties also are deuided into  
hūdreds which sōe wher  
are called wapentages.  
And hundredes are deu-  
ded into villages vnder  
whitch appellation are co-  
teyned borowes and Ci-  
ties. For the boundes of  
villages are not contey-  
ned within the circuit of  
walles, buyldynges, or  
streetes, but within the  
compasse of fildes, greate  
territories, certein ham-  
lettes, and many o-  
ther, as of wats, woodes  
& waste groundes, whiche  
it is not needefull nowe  
to set furthe by their  
names: because that in  
England there is skante  
any place, which is not  
contained within the cō-  
passe

parke of villages, though  
certeyn priuiledged places  
within villages are sup  
posed to be no parcell  
of y<sup>e</sup> same villages, More  
ouer in euerie countie ther  
is one certeyn officer cal  
led the kynges shierief,  
whiche amonge other du  
ties belongynge to his of  
fice, putteth in execution  
all the commaunde  
mentes, and iudgements  
of the kynges courte, that  
are to be executed within  
his countie. His office en  
dureth but for one yeare,  
so that after the expiratiō  
of that yeare, he may  
not minister in that of  
fice. Neither shall he  
within ii. yeares next en  
sueynge be admitted to y<sup>e</sup>

quis, qui non in  
fra villarum am  
bitus cōtineatur,  
licet priuilegiati  
loci quidam infra  
villas, de eisdem  
villis pars esse nō  
censentur. Prete  
rea in quolibet co  
mitatu est officia  
rius quidam vnus  
regis vicecomes  
appellatus, qui in  
ter cetera sui offi  
cii ministeria, om  
nia mandata et iu  
dicia curiarum re  
gis i comitatu suo  
exequenda, exe  
quitur, Cuius of  
ficiū annale est,  
quo ei post annū  
in eodem minis  
trare nō licet, nec  
duob<sup>9</sup> tūo seque  
tib<sup>9</sup> ānis ad idē of  
ficiū reassumetur

Of



Fortescue, in commendacion

Officiarius iste sic office agayne. This offi-  
eligitur. Quoli- cer is thus chosen. Every  
bet anno in crasti peare the morrowe after  
no animarum, cō All soullen daye all the  
ueniunt in scac- kynges counsellors meet  
cario regis omnes together in the kynges  
consiliarii eius, tā erchequer, aswel y lordes  
dñi spūales, et tēpo spirituall and tempozall  
rales quā alii ōnes as all other Iustices, all  
iusticiarii, omnes the barones of the erche-  
barones de scac- quer, the maister of the  
cario, clericus ro- rolles, and certeyn other  
tutorum, & qui- officers, where all these  
dam alii officarii with one comen assent  
vbi hii omnes cō- doo name of euerye coun-  
muni assensu, no- tie iii. knightes or esquy-  
minant de quoli- ers, whome amonge o-  
bet comitatu tres ther of the same countie  
milites vel armi- they take to bee of good  
geros, quos inter dispositiō and fame, and  
ceteros eiusdem best disposed to the office  
comitat<sup>9</sup> ipsi opi of the shiereif of that cou-  
nātur melioris et tie. Of the whiche iii.  
se dispositionis et the kyng chooseth one,  
fame, et ad offici- whome  
um vice comitis  
comitat<sup>9</sup> illi<sup>9</sup> me

whome by his letters patents he appointeth sherief of the countie that he is chosen of for the yere then folowinge. But he before hee receaue his patent shall swere bpō hōlye ghospell amonge other articles, that he shall well and faithfullly and indifferently exercise and doo his office all that yere, and that he shall receaue or take nothing of any other man then the Kyng, by colour or meane of his office. These thynges beyng thus now presupposed, lett vs proceede too the searche of those thynges, that we seke for.

lius dispositos: ex quibus rex vnum tantum eliget, quē per litteras suas patētes constitu- et vicecomitem comitat⁹ de quo eligit, p̄ āno tunc sequēte; sed ipse ātequā lr̄ illas recipiat, iurabit sup̄ s̄ta dei euāgelia, inter articulos alios qd bene, fidelit̄ et indifferēt̄ exercebit et faciet officiū suū toto āno illo neq; aliqd recipiet colore aut causa officii sui ab aliquo alio quā a rege. His iā sic p̄suppositis, ad eorū q̄ querim⁹ indagine pcedamus.

*Howe Iurers must be chosen and sworne*



## Fortescue, in commendacion

**Q** Vociescunq; contendētes in curiis regis Anglię, ad exitū placiti super materia facti deuenierint, concito Iusticiariū p breue regis scribunt vic. com in quo factum illud fieri supponitur, quod ipse venire faciat coram eisdem Iusticiariis, ad certū diem p eos limitatum, duodecim probos et legales homines, de vicineto, vbi illud factum supponitur, q neutri partiū sic placitū vlla affinitate attingunt. Ad recognoscendū sup eorū sacramenta, si factū illud factum fuerit, sicut vna earundē par

**A** Softe as suters in the courtes of the kynges of Englande are come to the issue of their plea vpon the mater of the facte, furthwith the Iustices by vertue of the kynges wrytte directed vnto the shirief of the countie, wherein the deede is supposed to be done, wyll him to cause to come befoze the same Iustices at a certein day by them limitted xii good and lawfull men neighbours to the place where the facte is supposed to be done: the same to be such as be of no kyne to either of the pleaders, to the ende that by ther othes it maye certeynly be knowē, whether the deede were done as the one partie as

sirs

firmeth, or ells as the o-  
ther partye denyeth. Up-  
pon the daye aforesayde  
the shierif shall retourne  
the said wrytte befoze the  
same Justices, together  
with the pannell of their  
names, which he hereun-  
to hath sommoned. And he  
they are come either par-  
tie may refuse them, al-  
legging that the shierif  
hathe made that pannell  
favorably for the other  
partye of persones not in  
different. Whiche excep-  
tion if it be founde treue  
by the othe of ii men of  
the same pannell chosen  
thereunto by the Justy-  
ces, that pannell shall  
immediatly be quashed  
And then the Justices shall

tium dicit, vel nō  
sicut altera pars  
negat. Quo adue-  
niente die, vice-  
comes returnabit  
breue p̄dictū co-  
rā eisdē iustitiariis  
vna cum pan ello  
nominū eorum  
quos ipse ad hoc  
sumoniuit, quos)  
si venerit) vtraq;  
pars recusare po-  
terit, dicēdo qd vi-  
cecōes panellum  
illud favorabiliter  
fecit, p pte altera  
videlicet de per-  
sonis min⁹ idiffe-  
rentib⁹. Que ex-  
ceptio, si cōperta  
fuerit vera per sa-  
cramētum duo-  
rum hominū de  
eodē pannello, ad  
hoc p iusticiarios  
electorū, mox pā-  
nellū illud quassa-  
bit et iusticiar tūc



## Fortescue, in commendacion

scribēt Coronato  
rib<sup>9</sup> eiusdē comi-  
tat<sup>9</sup>, qd ipsi nouū  
faciāt panellum.  
Quod cuz fecerit  
si & illud cōsimi-  
lit<sup>9</sup> reptuz fuerit  
viciatū, etiā et il-  
lud quassabitur:  
et tūc iusticiarii e-  
ligēt duos de cle-  
ricis curiē illi<sup>9</sup>, vel  
alios de eodē co-  
mitatu qui ī pſen-  
tia curiē p eorum  
sacramēta faciēt ī  
differēs panellum  
qd deinde p nul-  
lā partiū illarū ca-  
lūpniabitur. sed cū  
venerit sic īpanel-  
lati ī Curiā q̄libet  
partiū exciper<sup>9</sup> po-  
test cōtr<sup>9</sup> psonā cu-  
iuscūq; eorū, sicut  
et pot<sup>9</sup> ī ōni casu  
et ōni tēpor<sup>9</sup> quo  
aliq̄s qualitercūq;

Wryte to the coroners of  
the same countie that they  
shall make a newe pai-  
nell. Whiche when they  
haue dōe if it be likewise  
founde faultie, it shall also  
be quassed. And then the  
Justices shall elect and  
choose ii of the clerkes of  
the same courte, or other  
of the same countie, which  
in the pſeſce of the court  
vpon their othes shall  
make an indifferent pa-  
nell, whiche by neither  
of the parties shalbe chal-  
lenged. Howbeit when  
the men so impanelled  
are come into the courte,  
either of the parties may  
make exceptions against  
the persōe of anye of thē,  
as he may also do in all  
cases & at all times whē  
any mā by any meanes  
impa-

impanelled shall appeare  
to be swozne in the courte  
vpon the truthe of such an  
issue: sayng that the per-  
son impannelled is cosein  
or allyed to y other party  
or by anye kind of amity  
so knytte vnto him, that  
he is not indifferent to de-  
clare the truthe betwene  
them. And of these excep-  
tions there are so manye  
kyndes and sortes, that  
theye can not bee in fewe  
woordes rehearsed. Wher  
of if anye one bee founde  
true, thenne shall not bee  
bee swozne agaynst whō  
the exception is purposed,  
but his name shall be can-  
celled in the pannell. So  
also shalbee done of all  
the names of the persons  
impannelled, vntill xij. of  
thē so indifferent be swozn,

v. l.

cūq; ipanellat<sup>9</sup> cō  
paruerit incuria su-  
per veritate exitus  
hūmodi iuraturus,  
dicēdo qd' ipanel-  
latus ille est cōsan-  
guineus vel affinis  
parti alteri, vel a-  
micitia quacūq; ta-  
li sibi coniūct<sup>9</sup>, qd'  
indifferēs ipse nō ē  
ostēdere inter eos  
veritatē: qualiū ex-  
ceptionū tot sunt  
genera et species,  
quod nō licet eas  
breui explicare ser-  
mone. Quarū si a-  
liqua repta fuerit  
vera nō tūc iurabi-  
tur ille cōtra quē  
exceptio illa ppo-  
nitur, sed cācellabi-  
tur nomē ei<sup>9</sup> in pa-  
nello. Sic quoq; fi-  
et de oīb<sup>9</sup> nominē  
b<sup>9</sup> impanellatorū,  
quousq; duodeci



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eorū iurēt ita īdif-  
ferētes, qd' vers' e-  
os neutra partium  
hēat aliquā materi-  
ā calūpnię. Horū  
autē xij. ad minus  
quatuor erunt de  
hūdrodo vbi villa  
ī qua factū de quo  
cōtēditur fieri sup-  
ponit', sita ē et q-  
libet iurat' hūdrodi,  
habebit terras vel  
reddit' p t'mio vi-  
tę suę, ad min' ad  
valorē annuū xl.s.  
Et hic ordo obser-  
uat' ī oib' acciōib'  
et causis criminali-  
b', realib' et pso-  
nalib', pter q' vbi  
dāna vel dēbitū ī  
psōnalib' nō exce-  
dūt xl. marcas mo-  
netę anglicanę qā  
tūc nō requirit' qd'  
iuratores ī actioni-  
b' hūdrodi tātū ex-  
pēdere possint. Ha

that neither party can ha-  
ue against them any ma-  
ter of erception or challen-  
ge. Also of these. xij. iij. at  
the least shalbe of the hū-  
dred where the village sta-  
deth wherin the fact wher  
uppon the suite rissethe is  
supposed to bee done. And  
euerie suche Juror shall  
haue landes or reuenues  
for terme of lyfe at y least  
to the yearly value of xl.s.  
And this order is obserued  
& kept in al actions & cau-  
ses criminnall real, and  
personall, sauynge whe-  
re the damages or debt  
in acciōs psonal exceedeth  
not the sūme of. xl. mar-  
kes of Englishe moneye.  
For the same it is not re-  
quisite that Jurors in such  
accyons shall bee habile  
to dyspende somuche.

¶

¶ Act they shall haue lande  
or rentes to a competent  
value after the discretion  
of the Iustices. Other  
wyle theye shall not bee  
sworne, leaste for neede  
and pouertie such Jurers  
myghte easelye bee cor-  
rupte and suborned.

And if by suche excep-  
tions so manye Jurers na-  
mes bee cancelled in the  
pannel that there remay-  
neth not a sufficient num-  
ber to make thereof a Ju-  
rie, the þ sherifes by þ kin-  
ges write shalbe commaun-  
ded to adioyn mo Jurers.  
¶ With thing may ofte be  
don, so þ for lack of Jurers  
þ inquisitiō of þ truth tpo  
such a plea shal not remai-  
n. And this is þ conryn how  
Jurers and suche inquisi-  
tors of truth ought to be  
chose in the kings court.

¶.ii.

bebūt tñ terrā vel  
reddit' ad valorē  
cōpetētē, iuxta dis-  
cretiōē iusticiario-  
rū, alioquin ip̄imi-  
nie iurabūt, ne (p  
inediā et paup̄tatē  
iurator' hñodi de  
facili valeāt corru-  
pi aut subornari.  
Et si p tales excep-  
tiōes, tot iuratorū  
nō d i pannello cā-  
celēt', qd' nō rema-  
neat numer' suffi-  
ciēs ad faciēdū idē  
iuratā, tūc mādabi-  
tur viē p breue re-  
gis, qd' ip̄e appon-  
plures iurator, qd'  
et sepi' fieri potest  
ita qd' inq̄sitiō ve-  
ritat. sup exitu pla-  
citi, nō remanebit  
ob defectū iurato-  
rū. Et hec ē forma  
qualit' iuratores et  
veritat' hñodi inq̄si-  
tor' eligi debēt in  
curia regis



Fortescue, in commendacion

similiter et iurari,  
quare quo modo  
ipsi de veritate illa  
dicēda onerari de-  
bent et informari,  
iā restat vt quera-  
mus.

and lyke wise to bee swor-  
ne. ¶ Herefoze how they  
musste bee charged and in-  
fourmed of y<sup>e</sup> vtterynge of  
y<sup>e</sup> same trueth, this now  
resteth to be discussed.

¶ *Howe Iurers oughte to be enfourmed by cui-  
den-  
ces and witnesses.* Cap. 26.

**I**Vratis demum  
in forma p̄dicta  
duodeci p̄bis et le-  
galib<sup>9</sup> hominibus  
habentibus vltra  
mobilia sua posses-  
siones vt p̄dicitur  
sufficiētes, vnde e-  
orū statū ipsi cōti-  
nere poterūt, et  
nulli partiū suspec-  
tis nec iuvis, sed e-  
isdē vicinis, legetur  
in anglico corā eis  
p̄ curiā, totū recor-  
dū et p̄cessus pla-  
citi qd̄ p̄det iter

**T**welve good & lawefull  
mē beig at y<sup>e</sup> last swor-  
ne in fourme afozsaide, ha-  
uing besides their mouea-  
bles, sufficiēt posselliōs as  
afoze is declared, wherby  
they may be hable to mai-  
tai their own states, & be-  
ing to neither partye sus-  
pected oꝝ hated, but neigh-  
bours to thē both, thē shal  
be red befoze thē in Eng-  
lish by y<sup>e</sup> court al y<sup>e</sup> recorde  
& p̄cesse of the plea de-  
pendynge beetweene the  
parties

parties, with a plaine declaration of the yssue of y plea, touching the trueth whereof those swozne men shall certifie the court. Whiche thynges beinge done eyther party by himselfe or his counsellours in the presence of the court shal utter and open to the saide swozne men all and singular matters and evidences whereby he thinketh he may best informe them of the trueth of the yssue so impleaded. And then maye eyther partie bring before the saire Justices and swozne menne al and singular suche witnesses on his beehalfe as hee will produce. Who by the Justices beeing charged upon the holye gospel of godde, shal tes-

partes: ac de iurisdictione exponetur eis exitus placiti de cuius veritate iurati illi curia certificabunt quibus pactis, utraque partiū p se vel consiliarios suos in presentia curie, referet et manifestabit eisdem iuratis, omnes et singulas materias et evidencias, quibus eos docere se posse credit veritatem exitus taliter placitati. Et tunc adducere potest utraq; pars coram eisdem iusticiarijs et iuratis, oēs et singulos testes, quos p parte sua, ipa producere velit, qui sup facta dei euāgelia p iusticiarios onerati, p.iii. testi-



Fortescue, in commendacion

testificabūt oīa q̄  
cognoscūt p̄ban-  
tia veritatē facti,  
de quo partes con-  
tendunt. Et si ne-  
cessitas exegerit,  
diuidentur testes  
huiusmodi, donec  
ipsi deposuerint  
quicquid velint, i-  
ta qd' dictum yni-  
us, nō docebit aut  
concitabit eorū a-  
liū ad consimiliter  
testificandū. Qui-  
bus consummatis,  
postquā iuratores  
illi deinde ad eorū  
libitū sup veritate  
exitus huiusmodi, de  
liberatione quam  
tam ipsi optabunt,  
colloquiū habue-  
rint: i custodia mi-  
nistrorū curiē i lo-  
co eis ad hoc assig-  
nato, neiteri eos a-  
liq subornare vale

tise al thinges prouynge  
the truthe of the fact, who  
reupon the parties cōtend  
And if neede so require,  
those witnesses shalbe se-  
uered and deuided til they  
have deposed all that they  
wyl, so that the sayunge  
of one shall not moue or  
prouoke an other to testy-  
fy the lyke. The premis-  
ses beynge done, then af-  
ter that those Jurers ha-  
ue had talke at their plea-  
sure vppon the truthe of  
that yssue wythe asynuche  
deliberation as themselves  
shall require, in the kee-  
pyng of the ministers of  
the courte wythin a place  
to them for the same pur-  
pose assigned, to the in-  
tente that noz manne in  
the meane tyme may cor-  
rupte them, theye shall  
retourne

of the lawes of Englande I Fo. 59

retourne into the courte, at, reuenient illi in  
and certyfe the Iustices curia, et certifica-  
vppon the veritie of the vs bnt iustituarios sup  
sue so ioyned in the pre- veritate exitus sic  
sence of bothe the partyes iuncti, in presentia  
(if theye will be there) and partium (si interes  
specially of the plainetyfe se velint) et maxi-  
The reporte of whiche Ju me petetis. Quo-  
rers by the lawes of Eng ru iuratoru dictu,  
lande is called a verdycte per leges Anglie  
by the whiche word is veredictu nucapa-  
mente, a true reporte, or tur, et tunc secudu  
a reporte of the truethe. hmodi veredicti  
And thenne accordyng to qualitatem iustiti-  
the qualitie of that vere arij reddet et for-  
dite the Iustices shall fra mabunt iudic suu.  
me and fourme their iud- Tamen si pars al-  
gemente. Notwithestan tera contra qua ve-  
dyng the other par redictu hmodi pro-  
tye, agaynste whom the latu est, conquera-  
verdycte is geeuen com tur se p illud iniuf-  
playne that hee is there te esse grauatu, p-  
by vnjustly greened, then sequi tunc potest  
the same partye maye pars illa versus iu-  
sue a writte of attynate ratores illos, et ver  
s9 partē q optinuit  
breue de attineta.

V.iii Virtute



## Fortescue, in commendacion

Virtute cuius, si agaynst those Juries, and  
cōpertū fuerit per against the partie ȳ hathe  
sacramentū vigin- pzeuayled. By force of  
ti quatuor homi- whiche wryte if it shalbee  
nū, in forma p̄no- found by the othe of. xxiij.  
tata retornatorū, men in fourme aforesaide  
electorum, et iura- retourned elect and swoz-  
torum, qui multo ne, whiche shalbee men of  
maiora habebunt muche greater luynges  
patrimonia quam then the first Jurers were  
iuratores primi, that the same first Jurers  
quod ijdem primi haue made a false othe,  
iuratores falsum then the bodies of ȳ same  
fecerunt sacramē- fyrste Jurers shalbee com-  
tū, corpora eorun- mitted to the kynges pri-  
dem primorū iura- sone, theire goodes shal-  
torū prisone regis bee confiscate, and al their  
cōmittentur bona possessions shalbee seased  
eorū cōfiscabūtur, into the kynges handes.  
ac oēs possessiones their howses also & buil-  
eorundem in ma- dynges shalbee rased and  
nus regis capiētur, throlwe dōlwe, there  
domusquoq; eorū woodes felled, and their  
et edificia proster- medolwe groundes plowed  
nentur, bosci suc- And also ȳ same first Ju-  
cidentur, et prata rers shal  
arabuntur, ipsi eti-  
am iuratores primi

pers shal for ever after be  
noted for infamed persōs,  
and shal in no place be re-  
ceaved to testifie the truth  
And the partie whiche in  
the former plea had the  
ouerthrowe, shalbe resto-  
red to all thynges whyche  
by occasion thereof he ha-  
the lost. **¶** Who the, though  
he regarde not his soules  
health, yet for feare of so  
greate punishmente, and  
for shame of so greate in-  
fame woulde not vppon  
his othe declare the trueth  
And if one man parauen-  
ture haue so litle respecte  
to hys honoure or estima-  
tion, yet some of so ma-  
nye Jurers wyl not  
neglecte theyre owne  
good fame, nor wyl not  
thoroughe theyre owne  
defaulte suffre themselves

extunc infames e-  
runt, nec alicubi  
recipientur in tes-  
timonium verita-  
tis, et pars q̄ succu-  
buit in priori pla-  
cito, restituetur ad  
omnia que ip̄e per-  
didit occasione ei⁹  
Quis tunc ( et si  
immemor salutis  
anime sue fuerit, )  
non formidine  
tantę penę, et ve-  
recundia tantę in-  
fame, veritatē nō  
diceret, sic iuratus  
et si vn⁹ forsan tā-  
tus sui honoris p-  
digus esse nō pep-  
cerit aliqui tamen  
iuratorū tātorum  
famā suā nō negli-  
gēt, neq; bona et  
possessiōes suas ta-  
liter distrahi paci-  
entur,



## Fortescue, in commendacion

entur, propria culpa sua. Nōne iam hic ordo reuelādi veritatē, potior et efficacior est, quā est processus quālē pariunt ciuiles leges? Non hic peririunt causę aut ius alicuius per mortē aut ob defectū testium, nō hic producuntur testes ignoti, conducticij, pauperes, vagi, inconstātes, aut quorum conditiones vel malicię ignorātur. Vicini sunt testes isti, de propriis viuere potentes famę integrę, et opinionis illę, non per partem in curiam ducti, sed per officiariū nobilem

thus to be spoyled of their goodes and possessions. Is not this order now for the boultynge oute of the truethe better and more effectuell, then the processe which the Ciuile lawes do procure? Here no cause nor no mans ryghte quaillethe throughe death, or for wante of witnesse. Here are not brought furthe the vnknowen witnesse, hiered persons, poore men, vagaboundes, vnconstant people or suche whose conditions and naughtynesse is vnknowen. These witnesse are neyghebores hable to lyue of theyre owne, of good name and fame of honeste reporte, not brought into the court by the partye, but by a woorthyful

worshipfull and indiffer-  
rent officer chosen, and so  
compelled to come before  
the iudge. These knowe  
all that the witnesses are  
hable to depose, and theye  
knowe also the constan-  
cy and unconstauncye of  
the witnesses, and what  
reporthe goethe vppon the  
And what wyll ye haue  
more. Doubtles there is  
nothyng that maye dys-  
close the true the of anye  
doubt fallynge in conten-  
tion, whiche can in anye  
wyse be hydde from suche  
Jurors, so that it be possi-  
ble for the same to come to  
mans knowledg.

et indifferētē elec-  
ti, et coram iudice  
venire compulsi.  
Isti omnia sciunt  
q̄ testes deponere  
norūt et isti testi-  
um productorum  
agnoscūt constan-  
tias, incōstātiāsq;  
et famā. Quid vl-  
tra? vere nihil est  
quod veritatē du-  
bij de quo conten-  
di poterit, detege-  
re valebit, qd' iura-  
torib⁹ talib⁹ late-  
re quomodolibet  
potest aut ignora-  
ri, dūmodo possibi-  
le sit, illud venire  
posse in agnitiōē  
humanam.

¶ Here he sheweth the howe causes criminal are deter-  
mined in Englande.

Cap. 27.



## Fortescue, in commendacion

**S**ED quomodo i  
criminalibus le-  
ges Angliæ scrutā  
tur veritatem etiā  
rimare per necessa-  
rium est, vt et i eis  
plenariē agnita ā-  
barum legum for-  
ma, quę earum ef-  
ficacius latentem  
reuelat veritatem  
certius agnosca-  
mus. Si reus quispi-  
am de feloniam aut  
proditione in An-  
glia reatus cri-  
men suum coram  
iudicibus dedicat  
mox vicecomes co-  
mitatus vbi facin⁹  
illud commissum  
est, venire faciet  
coram eisdem iu-  
dicibus, viginti  
quatuor probos et  
legales hoēs de vi-  
ceneto villę vbi il-  
lud factū ē, q̄ reta-

**B**UT it is also necessary  
to discusse how in mat-  
ters criminal the lawes of  
Englande do fetch oute  
the truthe that perfectlye  
vnderstandinge the four-  
me of bothe the lawes,  
wee maye the more cer-  
tainelye perceaue & know  
whether of them bothe  
doth more effectually dis-  
couer the hydde truthe.

If anye manne accused  
offelonye or treason in  
Englande doe at his ar-  
reignement beefore the  
Iudges deny the offence,  
furthwith the Sherife of  
the countie where ȳ deede  
was done shal cause to co-  
me beefore the same iudges  
xiiij. good and lawefull  
men dwellinge nigh to  
ȳ village where the facte  
was done, suche men as  
to the

of the lawes of Englande Fo. 62.

to the party accused be no  
thing allyed: and suche as  
euery of the hathe. C. s. of  
land and reuenues, to cer  
tifie the iudges vpon the  
trathe of the crime. Whi  
che at theire appearaunce  
the partie accused maye  
challenge in lyke sorte  
as in actions reall maye  
bee done, as afoze is  
described. And mozeo  
uer the same partye in  
fauoure of hys lyfe maye  
challenge fiue and thirtie  
menne suche as hee mooste  
feareth: whyche vppon  
his challenge shalbee can  
celled in the pannel, or  
shalbee noted wyth such  
markes, that theye shall  
not passe vppon hym:  
thoughe hee bee not hable  
to shewe anye cause of his  
exception and challenge.

to illi nulla affini  
tate attingunt, et  
quorū quilibet cē  
tū solidat<sup>o</sup> heat ter  
re et reddit<sup>o</sup>, ad cer  
tificādū Iudices il  
los sup crimī illi<sup>o</sup>  
veritate. Quib<sup>o</sup> cō  
parētib<sup>o</sup>, rettat<sup>o</sup> il  
le eos calūpnare  
potest eadē forma  
qua ī actionib<sup>o</sup> re  
alibus fieri debere  
supi<sup>o</sup> describit. Et  
ī sup re<sup>o</sup> ipse ī fauo  
rē vitę suę calūpnī  
are potest triginta  
quīq; hoīes, quos  
ipse maxime formi  
dat, q̄ ad ei<sup>o</sup> calūp  
niā cācellabūt ī pa  
nello, aut sign tā li  
b<sup>o</sup> notabūt qd' (vt  
verb<sup>o</sup> leg<sup>o</sup> vtar)  
illi sup eū nō trāsi  
būt licet ipse nullā  
causā assignare sci  
at exceptionis seu



## Fortescue in commendacion

calūpnię suę. Quis  
tūc mori posset in  
iquē in Anglia pro  
crimine? cū tot iu  
uamina habere il  
le poterit ob fauo  
rē vitę suę? et nō  
nisi vicini eius, p  
bi et fideles homi  
nes, versus quos  
ipse nullā hēt ma  
teriam exceptionis  
eū condēnare po  
terūt? mallem re  
uera viginti facino  
rosos mortem pi  
etate euadere, quā  
iustū vnū iniuste  
condempni. Nec  
tamē reū quempiā  
sub hac forma, rea  
tus sui penam eua  
dere posse suspicā  
dum est, dum eius  
vita et mores ti  
mori deiceps erūt  
eis qui eū sic pur  
garunt a crimine.

¶ **W**ho the nnc can vniustlye  
dye in Englande for  
anye criminall offence, se  
yuge hee maye haue so  
manye helpes for the fa  
uoure of his life, and that  
none maye condempne  
him but his neighboures,  
good and lawfull menne  
agaynst whom hee hathe  
no mater of exception. In  
deede I woulde rather  
wythe twenty euill doo  
ers to escape deathe tho  
rough pitie, thenne one  
manne to bee vniustlye  
condempned. And yet it is  
not to bee suspected, that  
anye offendoure can vnder  
this fourme escape the  
punishment of his offence,  
soasmuche as his lyfe  
and conuersation shalbee  
afterwarde a terroure  
to them that haue thus  
cleared hym of the crime.

In this

of the lawes of Eng'lande Fo.63.

In this kynde of proce-  
dyng there is noe cruel-  
tye or extremitie vsed. Nei-  
ther can the innocent and  
vnguiltie persone be hurt  
in his bodie or limmes.  
Wherefore hee shall not  
stand in feare of the slaue-  
der of hys enemies, bee-  
cause hee shall not be rae-  
ked or tormented at their  
wyll and pleasure.

Thus vnder this lawe a  
manne maye passe his life  
w<sup>th</sup> the quietnes and safe-  
tie. Judge yow therefore  
moste noble p<sup>ri</sup>nce whe-  
ther of these lawes ye had  
rather chose, if you should  
liue a p<sup>ri</sup>uate life.

In hoc equidē pro-  
cessu nihil est crus-  
dele, nihil inhumā-  
nū, nec ledi pote-  
rit innocens i cor-  
pore aut membris  
suis quare nec for-  
midabit ille calūp-  
niam inimicorum  
eius quia non tor-  
quebit iste ad ar-  
bitrium ipsorum.  
Sub hac igitur lege  
vivere quietum et  
securum est. Iudi-  
ca ergo, princeps  
optime, q<sup>uod</sup> legum  
harum tibi electis-  
sima foret, si tu  
p<sup>ri</sup>uatam spirares  
vitam.

¶ The prince graunteth the lawes of Englande to  
be more commodious for the subiectes,  
then the Civile lawes in the case  
nowe disputed. Cap. 28.



## Fortescue, in commendacion

**C**Vi princeps. Arduū ābiguū ue Cācellarie, nō conspicio, qd' morosum me tutubātēue redderet in electione rei quā interrogas. Nā quis nō sub lege quā securam ducere posset vitā viuere potius eligeret, quā sub lege tali, sub qua inermem indefensumq; se sep redderet se uiciū omniū inimicorū eius? Vere tutus quisquā esse nō poterit in corpe aut in bonis, quē inimicus eius (in omni causa) conuincere poterit testib⁹ duobus etiam ignotis, per ipsummet electis et pductis.

**W**hereunto the pñnce answered and sayde. I see no harde or straunge mater, good Chaūcelour that shoulde make mee doubtfull or daungerous in the election and choyse of the thyng that yee aske. For whoe woulde not rather choose to lyue vnder that lawe, where vnder hee myghte lyue in securite, then vnder that lawe, whych woulde sette hym naked and succourlesse agaynste the crueltie of hys enemyes. Merelye no manne can bee saue in body or goodes, whom his aduersarye maye conuince in euery cause wth the twoo vnknowen wytnesses of his owne choosynge & bynngynge fourthe.

And

And thoughbe a manne be  
not compelled by theire  
sayenges to dye, yet is he  
lyttell relleued that hath  
escaped deathe, beeynge  
shronke in all his syn-  
nells and lymmes, & cast  
into a perpetuall impo-  
sencye of his bodye. And  
truelye into suche daun-  
ger maye the crafte of a  
spytfull person brynge a  
nye manne that lyueth  
vnder the lawe, whych  
herewhile you spake of.  
But suche mischtese and  
inconuenience cannot be  
wroughte by witnesses  
that make theire deposi-  
tions in the pzesence of  
twelue trewyble menne  
neygbbours to the deede  
that is pzesentlye in que-  
stion, and to the circum-  
staunces of the same:

Et licet quis mor-  
tem per dicta eo-  
rum subire nō co-  
gatur, parum ta-  
men releuatur ip-  
se qui mortem e-  
uasit, cōtractione  
neruorum & mē-  
brorum suorum,  
atq; corporis eius  
languore ppetuo.  
Tali reuera disci-  
mini impellere po-  
test inimici astutia  
oēm hominē qui  
sub lege degit, quā  
tu iam dudū expli-  
casti. Sed tale ma-  
lū operari neque-  
rūt testes qui de-  
positiones suas fa-  
ciunt, in presentia  
duodecim fide di-  
gnorū vicinorū fa-  
cto de quo agit &  
circūstantiis eius,  
qui



## Fortescue in commendacion

qui et noscunt eorundem testium mores, maxime si vicini ipsi fuerint, noscunt etiam et si ipsi sint credulitate digni. Omnes etiam duo decim tales latere omnino non poterit, quicquid actum est per, aut inter vicinos eorum. Nosco namque ego certius quæ iam aguntur hic in Barro vbi sum modo conuersatus, quam quæ in Anglia fiunt. Nec effugere posse puro noticiam prohiberi ea quæ aguntur, licet quodammodo occultè, prope domesticum eius.

imp

which also know the manners and condicions of the same witnesses, specially if they bee nigh dwellers and knowe also whether they bee menne worthe to bee credited or no. And further all those that cannot bee ignorant in those things that were doone by & among their neighbours. For I know more certeinlye the things that are doone here in Barro where I am now remayninge, then those things that are done in England. Neither doe I thinke that things can be kepte from the knowledge of a good & honest man being done nigh to his house, and almost vnder his nose, bee they neuer so secretlye doone.

But

of the lawes of England. Fo 68

But yet I maruail much  
why the foresaide lawe of  
Englande, whiche is so  
good and commodious,  
is not commen to all the  
whole worlde.

Sed tuncur predic-  
ta lex Anglie, que  
tam frugi et opta-  
bilis est, non est toti  
mundo commu-  
nis, vehementer  
admiror.

*¶VV by inquestes are not made by iuries of  
men in other roialmes aswel as in  
Englande. Cap. 29*

Y Our highnes came be-  
ry yonge out of Englañ  
(quod the channellour,) so  
that the disposicion and  
qualitie of that lande is  
vnknownen vnto you.

Whiche if ye know, and  
shoulde compare there-  
with the commodities  
and qualitties of other  
countreys, you woulde no-  
thinge maruaille at these  
thinges, whych holwe  
do trouble youte mynde.

**C** Ancellarius  
Iuuenis re-  
cessisti (princeps) ab  
Anglia, quod tibi ig-  
nota est dispositio  
et qualitas terre il-  
lius, quas si agno-  
ueris, et ceterarum  
regionum emolu-  
menta qualitatesque  
eisdem compara-  
raveris, non admi-  
rareris ea quibus  
iam agitur animus  
tuus.

*¶.ii. An.*



## Fortescue, in commendacion

Anglia sane tam  
fertilis est, qd' quā  
titate ad quantita  
tē cōparata, ipsa  
ceteras oēs quasi  
regiones exsuperat  
vbertate fructuū  
etiā suū vltro ipsa  
pfert vix industria  
hoīs cōcitata. Nā  
agri ei⁹, cāpi, salt⁹,  
et nemora, tanta  
fecunditate ger  
mina ebulliūt, vt i  
cultā illa, sepe plus  
comodi afferant  
possessoribus suis  
quā arata, licet fer  
tilissima ipsa sint se  
getū, & bladorū.  
Includūt quoq; in  
terra illa pasturar  
arua, fossatis, et se  
pibus, desuper ar  
boribus plantatis,  
quibus muniunt  
a procellis et estu  
sols eorū greges

In deede Englande is so  
fertile and fruitfull, that  
comparinge quantitie to  
quantitie, it surmoun  
teth all other landes in  
fruitfulness. Yea it bring  
geth furthe fruite of it self  
skant prouoked by mans  
industrie and labour.

For there the landes the  
fieldes, the groues and  
the woodes doe so abun  
dantly sprynge, that  
the same vntilled do com  
monlye yelde to theire  
owners more profit then  
tylled, though they  
be most fruitfull of coyne  
and graine. There also  
are fildes of pasture in  
closed with hedges and  
dytches, with trees plan  
ted and growynge vpon  
the same, whiche are  
a defence to theire heardes  
of sheepe and cattell,  
aswel

of the lawes of England. Fo 66

as well agaynst stormes,  
as also againste the heate  
of the sonne. And the  
pastures are commonly  
watered, so that cattell  
shutte and closed therein  
haue no neede of keping  
neither by daye, no: by  
nighte. For there bee noe  
wolfes, no: beares, no:  
Lyons. Wherefore theire  
sheepe lye night by night  
in the fieldes vnkepte  
within their foldes, wher  
with theire lande is ma-  
nured. By þ meane wher  
of the merne of that coun-  
trei are skante troubled  
with anye painefull la-  
bour. Wherefore they  
lyue moze spiritually, as  
dyd the auncient fathers  
whiche dyd rather choose  
to keepe and feede cattell  
the to disturbe þ quietnes

et armenta, ipseque  
pasture ut pluri-  
mum irrigue sunt,  
quo infra earum  
claustra reclusa a-  
nimalia, custodia  
non eget per diem nec  
per noctem. Nam ibi lu-  
pi non sunt, vultu nec  
leones, quare de  
nocte oues eorum  
incustodite in ca-  
pis recumbunt, in  
caulis, et ouilibus  
quibus impugna-  
tur terre eorum.  
Vnde homines patrie  
illius vix operis  
sudore grauatur,  
quare spiritu ipsi  
magis viuunt, ut fe-  
cerunt patres anti-  
qui, qui pascere  
mallebant greges,  
quam animi quiete  
agriculture solici-  
tudine turbare.

J.iii.

Ex



Fortescu, in commendacion

Ex quibus homines regionis istius apti magis redduntur et dispositi, ad discernendum in causis que magni sunt examinis, quam sunt viri qui telluris operibus inhabitantes, ex ruris familiaritate mentis contrahunt ruditeriam. Regio etiam illa ita respersa, refertaque est possessoribus terrarum, et agrorum, quod in ea villula tam parua reperire non poterit, in qua non est miles, armiger, vel pater familias, qualis ibidem frankelain vulgariter nuncupatur, magnis ditatur possessionibus, nec non libere tenentes

of the mynde wyth the care of husbandrye. And heereof it cometh that menne of this countrey are moze apt and fitte to discern in doubtfull causes of greate examination and tryall, then are men whollie geueen to mowlyng in the grounde: in whome that rurall exercise ingendzeth rudenes of witte and mynd. Doe ouer the same countrey is so filled and replenished with landed menne, that therein so small a thorpe can not be founde wherein dwelleth not a knight, an esquire, or such a household as is there commonly called a franklayne, enriched with greate possessions: And also other freeholders, and

of the lawes of England. Fo 67

and manye yomen habile  
foz their liuelods to make  
a Jurie in fourme afoze  
mentioned. Foz there bee  
in that lande dyuers yomenne  
whiche are able to  
dispende by the yeare a-  
boue a hundzeth poundes  
¶ Wherefoze the Juries a-  
foze declared are there be-  
rye ofte made, specially in  
greate matters of knygh-  
tes, esquires, and others  
whose possessions in the  
whole amounteth yerely  
aboue the summe of fyue  
hundzeth markes.

¶ Wherefoze it cannot bee  
thought that such menne  
can bee suborned, oz that  
they wyll bee periured,  
not onelye foz that they  
haue befoze theire eyes  
the feare of God, but  
also, foz that theye

alii, et valecti plu-  
rimi, suis patrimo-  
niis sufficiens, ad  
faciendū iuramentum  
in forma prenotata.  
Sunt naq; va-  
lecti diuersi in re-  
gione illa, qui plus  
quā sexcenta scu-  
ta p annum expen-  
dere possunt, quo  
iurate supius de-  
scripte, sepissime i  
regione illa sunt:  
presertim in ingen-  
tibus causis, de mi-  
litibus, armigeris,  
et aliis quorū pos-  
sessiones in vni-  
uerso excedunt  
duo milia scutorū  
per annum, Qua-  
re cogitari nequit  
tales subornari  
posse, vel piurari  
velle, nedū ob ti-  
mor dei, sed & ob

¶ J. iiii. ho-



Fortescu, in commendacion  
honorem suū conseruandum, et vituperium damnū quoque inde consequutium euitādum, etiam ne eorum heredes ipsorum ledantur infamia. Taliter, fili regis, disposita inhabitataque non sunt aliqua alia mundi regna. Nam licet in eis sint viri magnę potentię, magnorum opum et possessionum, non tamen eorum vnus prope moratur ad alterum, vt in Anglia tanti morantur viri, nec tanta vt ibi hereditariorum est copia et possidētū terras;

haue a carefull regarde too the p̄seruation of theire honoures, and to the eschueyng of reproch, and damage thereupon ensuyng, and also that theire heires bee not impeched thzough theire infamye. After thys manner, O myghtye Prince are none other royalmes of the worlde dysposed and inhabtyed.

For though there bee in them menne of greate power, of greate ryches, and possessions, yet they dwell not one nyghe to an another as such greate menne dooe in England. Neyther so manye inherytoures and possesours of lande are elsewhere as in Englande.

For

For in a whole towne of  
an other Countrey it is  
harde to fynde one man  
whych for his lyvelode  
is hable to bee receaved  
into a Jurye. For there,  
excepte it bee in Cities  
and walled townes, be-  
rye felwe there bee, beside  
noble menne that haue a  
nye possessions of landes  
or other immorables.

The noble menne also  
haue there small store of  
pasture. And to labour in  
byneyardes, or to putte  
theire handes to y plough  
that is vnfitte for theire  
estate and degree.

And yet in byneyardes  
and eareable groundes  
consisteth the substance  
of theire possessions, sa-  
uyng onely a fewe  
fyeldes nexte adioynge

vix enim in villa-  
ta vna regionum  
aliarū reperiri po-  
terit vir vnus, pa-  
trimonio suffici-  
ens, vt in iuratis  
ipse ponatur, Nā  
raro ibidē, aliqui  
preter nobiles re-  
periuntur possesso-  
res agrorū, aliorū-  
ue immobiliū, ex-  
tra ciuitates & mu-  
ratas villas. Nobi-  
les quoq; ibidem  
pasturarū copiam  
nō habēt, & vine-  
as colere, aut ara-  
tro manū appone-  
re, statui eorū non  
cōuenit, tñ in vi-  
neis et terris ara-  
bilib' cōsistit sub-  
stantia possessionū  
eorū, exceptis so-  
lum pratis quibus-  
dam, adiacentibus  
magnis



## Fortescue, in commendacion

magnis ripariis, et exceptis boscis, quorū pasturę cōmunes sunt tenentibus et vicinis suis. Quomodo tūc in regionibus talibus iurata fieri poterit ex duodecim probis hominibus de vicineto vbi factum aliquod in iudicio deducitur cū vicini dici non poterunt qui tanta distantia disjunguntur? Vere remotos multum a facto duodecim iuratos ibidē esse oportebit, postquā reus in regionibus illis triginta quinque; (sine assignata causa) de propinriorib' calūpniavit: quare aut  
to grease ryuers, and sawnge also certein wood; the pastures wherof are comen to their tenants and neighbours.  
Howe then can a Jurte bee made in suche countreis of ri. substantiall menne nighe adioyninge to the place of anye deede broughte in iudgement, seeinge they can not bee called neighbours that dwell so farre a sunder.  
Truely ri. sworne men theare must needes bee farre distaunt from the place of the deede, when the defendaunt in those Countreys hathe challenged xrb. menne of the nexte dwellers wythout shewynge anye cause whye. Wherefore in those landes a Jurte must

must bee made either of  
su. he as dwell farre of  
from the place of the deed  
that is in controuersie,  
and therefore cannot at-  
taine to the knowledge  
of the truthe thereof, or  
els it must bee made of  
pooze menne that bee not  
ashamed of infamie, nei-  
ther doe feare the losse of  
theire goodes which they  
haue not.

They also blinded w<sup>th</sup>  
rusticall and brute rude-  
nes are not hable to be-  
holde the cleare bryght-  
nesse of the trueth.

Wherefore not therefore,  
mo<sup>st</sup> woorthye Prynce,  
yf the lawe whereby the  
trueth is sifted out in  
Englande bee not fre-  
quented and v<sup>s</sup>ed in o-  
ther nations.

de multum remo-  
tis a facto de quo  
contenditur, qui  
veritatem facti  
non agnoscunt, in  
regnis illis oport-  
tebit facere iura-  
tam, aut de pau-  
peribus, quibus  
non est verecun-  
dia infamie, nec  
timor iacturæ bo-  
norum suorum,  
cum ipsa non sint  
ipsi etiam rustici-  
tatis ruditate ob-  
cecati, veritatis  
claritatem neque-  
unt intueri.  
Non igitur mi-  
reris princeps si  
lex qua in An-  
glia veritas inqui-  
ritur, alias non  
quaget nationes,  
ipse



Fortescue, in commendacion

ipse nanq; vt Anglia facere nequeunt sufficiens cōsimilesq; iuratas.

For they are not hable to make sufficient and lyke Iuries as bee made in Englande.

*¶ Heere the prince commendeth the lawes of Englande of theire proceeding by Iuries. Cap. 30*

**T**unc princeps Comparationes odiosas esse licet dixerimus, lex tamen Ciuilis in comparatione perfecte facta omni se purgavit a crimine: quia licet ei Legem Anglię tu pretuleris, odium inde ipsa non meretur, dum neque eam, neq; cōditores eius increpasti.

**T**hough we haue said, (q the pñce, that comparisons are odious, yet the Ciuile lawe in the comparison by you made hath cleared it selfe from all blame. For though you haue prooued y lawe of Englande to bee of more excellencye then it, yet it deserueth not thereby to bee odious, for so much as you haue blamed neither it nor the makers thereof.

But

of the lawes of England. Fo. 70

But haue shewed y<sup>e</sup> coun- sed solū patriam  
 trey wher it ruleth to be vbi illa regit cau-  
 the only cause why it doth sū esse demonstrasti  
 not in matters of doubte quod non tam op-  
 tye out the truth wyth so tabili processu vt  
 commendable a kynde of lex Anglię, ipsa in  
 proceedinge, as the lawe dubiis elicit veri-  
 of Englande dothe. But tatem. Legem ve-  
 as touchinge that y<sup>e</sup> law ro Anglię in casu  
 of Englande in the case iam per te dispu-  
 by you nowe discussed is tato, accomodati-  
 moze fitte and meete for orem esse regno  
 that roialme then the Ci illi quam est lex  
 uile lawe, hereof we may ciuilis, ambigere  
 not doubte. Wherefore non sinimur, quo  
 wee are not desirous to eam pro ciuili cō-  
 chaunge it for the Ciuile mutare non appe-  
 lawe. Howbeit this pree- timus, sed tamen  
 minence of the lawe of hec legis Anglię  
 England proceedeth not preeminencia, ab  
 of the fault of the other. alterius crimine  
 For it is onely the ferti- non euenit, solum  
 litle of Englande that enim eam Anglię  
 hath caused it to bee suche fertilitas, sic cau-  
 as it is. sauit.

The



## Fortescue, in commendacion

**T**he Prince doubteth whether this proceeding by a Lawe be repugnaunt to godds lawe or not.

Chap. 31.

**S**ed licet non in fine Cancellarie, nos delectet forma, qua leges Anglię in contentionibus reuelant veritatem, tamen an modus ille facere repugnet scripture vel non, paululum agitamus. Ait namque dominus phariseis. Ioh. viii. In lege vestra scriptum est, quia duorum hominum testimonium verum est, et huic applaudēs dominus inquit,

**B**ut though we be greatly delighted in the forme which the lawes of England vse in sifting out the truthe in matters of contention, yet whether the same lawe bee contrarie to holpe scripture or not, that is to vs somewhat doubtfull.

For our Lorde saith to the Pharisees in the viii. Chapter of Saint Johns Gospell: In your lawe it is written that the testimony of two menne is true. And the lorde confirming the same saith. I am

of the lawes of England. Fo. 71

I am one that beare wit-  
nesse of my selfe, and the  
father that sent mee bea-  
reth wytnes of me.

Nowe sir the pharases  
were Iewes, so that it  
was all one to saye. It  
is wytten in your lawe  
and it is wytten in Moy-  
ses lawe, whyche God  
gaue to the children of  
Israell by Moyles.

Wherefore to gaynesaie  
thys lawe is too denye  
gods lawe. Whereby  
it folowethe that if the  
law of England swarue  
from thys lawe, it swar-  
ueth also from Godds  
lawe, whyche in no wise  
maye bee contraryed.

It ys wytten also in  
eyghtenthe Chapter of  
Saint Mathwes gospel:

ego sum qui tes-  
timonium per-  
hibeo de me ip-  
so, et testimoni-  
um perhibet de  
me qui misit me  
pater.

Pharisei quippe  
iudei erant, unde  
idem erat dicere  
in Lege uestra  
scriptum est, et in  
Lege Mosayca  
(quę a domino p  
Moylen filiis Isra-  
ell prolata fuit)  
scriptum est.

Quare huic legi  
cōtraire, legi ē di-  
uinū refragari, quō  
sequit, qd' lex An-  
glię si ab hac lege  
discedat, a lege di-  
uina, cui reluctari  
nō licet, ipsa disce-  
dit. Scribitur  
etiam Math. xyij,

quod



## Fortescue, in commendacion

Quod dominus  
 (loquens de cor-  
 rectione frater-  
 na) inter alia sic  
 ait. Si autem non  
 te audierit frater  
 tuus, adhibe te-  
 cum adhuc vnum  
 aut duos, vt in ore  
 duorum vel tri-  
 um, stet omne  
 verbum. Si in ore  
 duorum vel tri-  
 um dominus om-  
 ne verbum statu-  
 erit, frustra pluri-  
 mum hominum  
 queritur in du-  
 biis veredictum.  
 Nemo enim po-  
 test melius aut a-  
 liud fundamen-  
 tum ponere,  
 quam posuit do-  
 minus.  
 Hec sunt Cancel-  
 larie que me de

Where the lord speaking  
 of brotherly admonitiō,  
 amonge other thinges  
 sayethe thus: But if  
 thy brother here thee not  
 then take yet wyth thee  
 one or twooe, that in the  
 mouthe of twoe or thre  
 witnesses euerpe matter  
 maye bee stablished.  
 If the Lorde haue ap-  
 pointed euerpe matter to  
 be stablished in y<sup>e</sup> mouth  
 of twoe or thre witnes-  
 ses, then it is in vaine for  
 to seeke for the verdict of  
 manye menne in maters  
 of doubt. For no manne  
 is able to laye any other  
 or better foundation then  
 the Lorde hath layde.  
 These are the doub-  
 tes good Chauncelloure  
 whyche touchynge the  
 p<sup>ro</sup>

of the lawes of England. Fo. 72

procedynge of the law  
of Englands in the try-  
all of maters do soe what  
trouble me. Wherefore  
what answer maye here  
vnto be made I would  
gladly learne of you

Here is shewed that the procedinge by a Iurie  
is not repugnant to the lawe  
of god. Cap. 32.

The lawes of Englaod,  
quod the Casicellour  
are nothige at all repug-  
nant to these thynges  
that trouble you, most  
worthie prince, though  
they in maters of doubte  
do somewhat other wyse  
boulte out & trouthe. The  
lawe of the generall cou-  
cell, wher it is prouided  
that Cardinales shall  
not be convicted of criminal

li. i.

legis anglie pro-  
cessu in probatio-  
nibus aliquantu-  
lum conturbant.  
Quare qd his res-  
pondendum est a-  
se doceri de posco

Aricellarius.  
non his quib<sup>9</sup>  
turbatis princeps,  
contrariantur le-  
ges Anglie licet a-  
liter quodamodo  
ipse in dubiis eli-  
ciant veritatem.  
Quid duorum ho-  
minu testimonio  
obest lex illa ge-  
neralis consilii, qua  
cauetur, vt non  
nisi duodecim tes-  
tiu



Fortescue, in commendacion

tium depositione  
cardinales de cri-  
minibus conuin-  
cantur. Si verum  
est duorum testi-  
monium, a fortio-  
ri testimoniū du-  
odecim verum iu-  
dicari debet, dicē-  
te iuris regula.  
Plus semper in se  
continet quod est  
minus. Super ero-  
gationis meritum  
promittebatur sta-  
bulario, si pl<sup>9</sup> quā  
duos quos recepit  
denarios, ipse in  
vuln<sup>9</sup>ati cura ero-  
gasset. Nōne plus  
quā duos aut tres  
testes producere  
oportebit quēpiā  
qui absentē se fu-  
isse probare niti-  
tur, tēpore crimi-  
nis sibi impositi,  
quod p<sup>9</sup> duos aut

offenses, otherwise then  
by the deposition of xii  
witnesses, is it any byn-  
deraigne to the testimo-  
nie of ii men? If the testi-  
monie of ii men be true,  
of more force must the tes-  
timonie of xii men be iud-  
ged true, acordyng to a  
rule of the law that say-  
ethe: The more ener con-  
teyneth in it that whiche  
is lesse. The iholder was  
promised to be rewarded  
with an overplus, if he  
bestowed vpon the cure  
of the wounded mā more  
then the ii. pence which  
he receaved. A man that  
laboureth to proue that he  
was absent at the tyme  
of the offense wherewith  
he is charged, shal it not  
be needefull for him to  
brynge in witness to conuince ad iud

brynge furthe mo then iiij. witnesses, when his aduersarie hath produced, or is ready to produce the same by iiij. witnesses. And so be that triuaylethe to conuince witnesses of perurie; must of necessite bringe furthe many mo then they were so that the testimonie of iiij. witnesses shall not neuer be iudged true. But that lawe must thus be vnderstanded, that by a lesser number of witnesses then ii. the truthe in matters doubtfull ought not to be searched for, as appeareth by Bernard assignynge dyuers cases wherein by the lawes mo then iii. witnesses must needes be produced. As in some of them v, and in

li. ii

tres testes. adusa-  
ri<sup>9</sup> ei<sup>9</sup> pbaui vel  
probare parat<sup>9</sup> ē.  
Sic et qui testes  
de iurio cōuice-  
re satagit, multo  
illis plures pduce  
re necesse habet,  
quo nō sēp duo-  
rū vel triū hoīm  
testimoniū verū  
esse iudicabitur,  
sed intelligēda est  
lex illa, qd mino-  
re testiū numero,  
quam duorū veri-  
tas in dubiis non  
debet exquiri, vt  
patet per Bernar-  
dū extra de testi-  
ca, licet i glosa or-  
dinaria, vbi ipse al-  
signat diūsos cas<sup>9</sup>  
i qb<sup>9</sup> p leges plu-  
res quā tres oportet  
pducere tes-  
tes. Videlicet i ali-  
qb<sup>9</sup> corū quinq;



For tescue, in commendacion  
et in aliquib<sup>9</sup> sep  
re, per duos etiam  
testes veritate p  
bari posse, cū non  
aliter ipa pateret  
vtiq; leges Anglię  
affirmāt. Nā si quę  
supra altum mare  
extra corpus cu  
iuslibet comitatus  
regni illius fiant,  
quę postmodū in  
placito corā admi  
rallo Anglię de  
ducātur, p testes  
illa iuxta legū An  
glię sactiones pro  
bari debent. Con  
similiter quoq; co  
rā constabulario  
et mariscallo An  
glię fieri solitū est  
de facto qd in reg  
no alio actū ē dū  
modo adiurisdic  
tiō curię cōstabula  
rię cognitio eius

and in some bit. For yett  
the lawes of Englande  
be not against it, but that  
the trespice may be pro  
ued by ii. witnesses, whē  
it can no other wyse be tri  
ed. For if thinges be done  
oppō the sea without the  
bodge of any countye of  
that royaume, which af  
terward be brought in  
plea before the lord ad  
mirall, the same thynge  
by the decrees of y<sup>e</sup> lawes  
of england must be pro  
ued by wytnesses. In  
lyke maner it hath bene  
accustomed to be done be  
fore the Cōstable & Mar  
shall of England tou  
chynge a facte that was  
done in an other roy  
alme, so that the hea  
rige thereof appertaleth  
all due & ought to be paid to

to the Constables court. Moreover in the courtes of certein liberties in Englad where matters proceede by lawe merchaunt contractes or bargaynes made amonge merchauts in an other royaume are proved by witneses. And this cometh to passe because that in these cases there be no neighbours founde by whose othes Juries of xii men may be made, as in contractes and other cases arisinge within the royaume of Englande is accustomed to be doe. Likewyse if a deede wherin witneses are named be brought into the kynges courte, then proceesse shalbe made agaynst those witneses: and they together with the xii. Jurers

B.iii.

pertineat, etia et in curiis quarundam libertatum. In Anglia ubi per legem mercatoriam proceditur, probant per testes contractus inter mercatores extra regnum factos. Quia in casibus his non reperiuntur vicini, per quorum sacramenta iurate ex duodecim hominibus fieri possunt, prout de contractibus et aliis casibus infra regnum Anglie emergentibus, est fieri consuetum. Similiter si carta in qua testes nominantur, deducatur in curia regis, processus tunc fiet erga testes illos, ipsi quoque



¶ Fortescue, in commendacion

quoque recognos-  
cet simul cum du-  
odecim iuratori-  
bus per eorum sa-  
cramenta, utrum  
carta illa sit facta  
eius cuius suppo-  
nitur an no. Qua-  
re legem qua testi-  
bus veritas extor-  
quetur, lex An-  
glie non condemp-  
nat, maxime cum  
necessit id depose-  
cat, quia et sic faci-  
ut ipsae leges An-  
glie, nedum in casu  
b<sup>o</sup> ia notatis, sed  
etiam in quibusda ca-  
sibus aliis quos non  
expedit hic notar.  
Sed per testes solum,  
lex ipsa nunquam li-  
te dirimit, quod per iura-  
ta duodecim homi-  
num discidi poterit  
cum sit modus iste ad  
veritatem eliciendam  
multo potior et

shall by their othes recog-  
nise whether the same be  
his dede or no whose la-  
is supposed to be. And here  
the lawe of Englad  
reprovet not that lawe  
whiche by iurmentes  
getteth out the truth, special-  
ly wher necessite is to requi-  
re the good do of lawes  
of Englande too, not on-  
ly in the cases now men-  
tioned, but also in certein  
other cases, wherof heve  
to make chersall it shall  
not be materiall how bet  
this lawe neuer determi-  
neth a controuersie by wit-  
nesses onely that may be  
determined by a iurie of  
rist-men. Forsomuche as  
this waye is muche more  
aualeable and effectuall  
for the triall of the truth  
then

then is the source of any  
other lawes of the world  
and further from the daū  
get of corruption and su-  
bomation. For this  
fourth of proceedinge cā  
not in any cause faile for  
wante of witnesses: no  
the testimonies of wit-  
nesses, (if any be) can  
not chouse but come to  
that one ende and effect  
Neither cā suche person  
be forsworne, but that  
for their offese they must  
suffer most sharpe pu-  
nishment, and neuer the-  
lesse the parte by their  
depositions greued shall  
obtaine due remedie. And  
these thiges shall not be  
doe by the will & saiges of  
strange or unknowne

of the lawes of Englande  
B. iiii. ad ed  
gu. an. 1170. de. 1170. ad  
ed.

efficacior quā est  
forma aliquarum  
aliarū legū orbis,  
et remotior a cor-  
ruptionis et su-  
bomationis peri-  
culo. Nec pot' hec  
p'decendi forma  
in causa aliqua, ob  
defectum testium  
deperire, neq. tes-  
tiū (si qui fuerint)  
attestationes, ef-  
fectum debitum  
non sortiri, nec p-  
iurari possūt duo-  
decim homines hu-  
iusmodi, qui p' eo-  
rū crimine ipsi a-  
cerbissime p'na-  
tur, et nihilominus  
p' p'corū deposi-  
tionē grauata, re-  
mediū debitū cō-  
sequetur, ac non  
fient hec per ex-  
traneorū aut igno-  
ratorū



## Fortescue, in commendacion

torum hominum  
arbitriū aut dicta-  
mē, sed p̄ proborū,  
nobiliū, et fide  
dignorū vicinorū  
ptib⁹ sacramē-  
ta, q̄b⁹ partes illæ  
nullā habēt causā  
calūpnie aut dif-  
fidencie de eorum  
dicto. O quā hor-  
rēdum et detes-  
tabile discriminē se-  
pe accidit, ex for-  
ma p̄ depositionē  
testium pcedēdi.  
Nōne si quis clā-  
destinū cōtrahat  
matrimonium, et  
postea corā testi-  
b⁹ mulierē aliā ip-  
se affidauerit, cū  
eadē cōsummāre  
matrimoniu arta-  
bitur in foro con-  
tencioso, et postea  
ī penitēciali foro  
iudicabitur ipse

men but by the othes of  
good, of worshipfull,  
and of credible mē neigh-  
bours to the parties,  
in whome the same par-  
ties haue no cause of chal-  
lenge or mistrust touchig  
their verdit. Whowever hor-  
ryble and detestable dan-  
gers happen many times  
throughe the fourme of  
proceedinge by wytnes-  
ses. As a mā make a pri-  
ue contract of matrimo-  
nie, & afterward before  
wytnesses do betrouthe  
or assure himself to ano-  
ther woman, shall he not  
in the contentious courte  
be cōpelled to marve her,  
& also after that in y<sup>e</sup> peni-  
tenciall courte be iudged  
to lye with the first, if he  
be duely required, and to  
do penaūce as ofte as by  
his

his owne mocio and pro-  
curement he liethe with  
the seconde, though in  
bothe courtes the iudge  
be one and the selfe same  
man. In this case, as it is  
wryten in Job, are not y  
synewes of Leuyathan  
perplexed and intricat.  
Fle so: shame, they are i-  
tricate in deede. Fo: this  
man can carnally compa-  
nie with neither of these  
it. women, no: with any  
other without punish-  
ment either by the con-  
tentious courte, or by the  
penitenciall courte. Such  
a mischief, inconueni-  
ence, or daunger can ne-  
uer happen in any case  
by the waye of proceeding  
by the lawe of England,  
no not though Leuiathā  
himselle would labour to

cōcumbere cum  
prima, si debite re-  
qratur, et penitere  
debet quoties ex  
actione ppria cō-  
cubuerit cū secū-  
da, licet in vtroq;  
foro iudex fuerit  
homo. vñ<sup>9</sup> et idē.  
Nōne in hoc casu  
vt i Job. scribitur  
pplexi sūt testiculi  
leuiathā? Proh pu-  
dor, verē perplexi  
sunt, nā cum neu-  
tra mulierum ha-  
rum, neq; cū alia,  
contrahēs iste ex  
tunc cōcumbet si-  
ne animaduertio-  
ne in foro cōtēdē-  
tium aut penitēti-  
um, quale malū in-  
cōueniēs aut dis-  
crimen, per mo-  
dum et formā pro-  
cess<sup>9</sup> legis Anglice  
im



Fortescue, in commendacion

impossibile est in  
casu aliquo eue-  
nire, etiam si leui-  
athan ipse ea ge-  
nerare nitatur.

None vides in pri-  
nceps clarissime, le-  
ges Anglorum tato  
magis clarescere,  
quanto eiusdem tu a-  
pli<sup>9</sup> reluctaris?

Wherefore certe in

procure the same. Do ye  
not now see, most noble  
prince, that the more you  
obstet against the lawes  
of England, the more  
worthie they appere.

For as much as the  
lawes of England are  
the more they appere  
the more they appere  
the more they appere

Kynges of England have had  
and debite in their owne lawes. Cap. 33.

**P**rinces. Vi-  
deo inquit, et  
eas inter totius or-  
bis iura (in casu  
quo tu is iudasti)  
prefulgere consi-  
dero, tamen pro-  
genitorum meo-  
rum Anglie regu-  
quosdam audiuimus  
in legibus suis mi-  
nime delectatos,

I see plainly, quod the  
prince, that in the rate  
wherein you have now  
reassayed they have the  
preeminence above all o-  
ther lawes of the world  
Yet we have heard that  
some of my progenitors  
kynges of England have  
not been pleased with their  
owne lawes, and have  
therefore gone about to  
brynge

bringyn p Ciuile lawes  
to the gouernement of  
England, and to abolish  
proune coltreu lawes  
for what purpose and is  
it they so did p miche  
marke the aduantage of  
the lawes of Englande  
Here the Chancelour openeth  
the cause which  
you would not hige mar  
ryell there at, quod the  
Chancelour, if you did  
deapaly consider luntre  
your selfe y cause of this  
intet, for you haue hard  
afore hoine that amonge  
the Ciuile lawes that  
marke of rule is a sen  
tence most notable, which  
thus syngeth: The pain  
res pleasure standeth in  
force of a lawe: quite

satagetes proide,  
leges ciuiles ad  
Anglice regimen  
inducere, et patri  
as leges repudia  
re fuisse conatos,  
horu reuera consi  
liu yehemeter ad  
miror.

the cause which  
you would not hige mar  
ryell there at, quod the  
Chancelour, if you did  
deapaly consider luntre  
your selfe y cause of this  
intet, for you haue hard  
afore hoine that amonge  
the Ciuile lawes that  
marke of rule is a sen  
tence most notable, which  
thus syngeth: The pain  
res pleasure standeth in  
force of a lawe: quite

**C**ancellarius  
Noni admi  
reris princeps iusti  
causam huius, eos  
namini in ece fo  
licita pertractares  
Audisti namq; su  
perius, quomodo  
inter leges Ciui  
les precipua sen  
tentia est, maxi  
ma siue regula, il  
la q sic cauit, qd  
principi placuit le  
gis habet vigo  
rem, qualiter non



Fortescue, in commendacion

sanctiūt leges Anglię, dum nedum regaliter, sed et politice rex eiusdem dominatur in populum suū, quō ipse in coronatione sua ad legis sue obseruanciam astringitur sacramento, quod reges quidam Anglię egrē ferentes putantes proinde se non libere dominari in subditos, ut faciunt reges regaliter tantum precipantes, & lege civili, et potissime predicta legis illius maxima, regulant plebem suam, quō ipsi ad eorum libitum iura mutant, noua condunt, penas in

contrarie to the decrees of the lawes of Englad, whereby the kynge there of ruleth his people not onely by regall, but also by politike gouernment. In somuche that at the time of his coronation he is bound by an othe to the obseruaunce and keepig of his owne lawe, which thinge sōe kynges of Englad not well brooking as thinkynge that thereby they should not freely gouerne their subiects as other kynges do, whose rule is onely regall, gouernynge their people by the Civile lawe, and chesely by that foresaid maxime of the same lawe whereby they at their pleasure chaunge lawes make

of the lawes of Englande Fo. 78

make newe lawes, ere-  
cute punishments, bur-  
den their subiectes with  
chargeis: and also when  
they last, do determine  
controuerfies of fueters,  
as pleaseth them. Where-  
fore these your progeni-  
tours went about to cast  
of the yoke politique, that  
they also might lyke wise  
rule or rather rage over  
the people their subiectes  
in regall wyse whely not  
consyderinge that the po-  
wer of bothe kynges is  
equall, as in the foresaid  
treatise of the lawe of the  
lawe of nature is decla-  
red: and that to rule the  
people by gouernement  
politique is no yoke, but  
libertie, and greates secu-  
ritie not onely to the sub-  
iectes, but also to y<sup>e</sup> kinge

fligunt, et onera  
imponunt subdi-  
tis suis, propriis quo-  
que arbitriis con-  
cederunt cum ve-  
lint dirimunt lites.  
Quare moliti sunt  
ipsi progenitores  
tui hoc iugum po-  
liticum abicere: ut  
confiniliter et ip-  
si in subiectum po-  
pulum regaliter  
tantum dominari  
sed potius deba-  
chari queant: non  
attendentes quod  
equalis est utrius-  
que regis poten-  
cia, ut in predicto  
tractatu de natu-  
ra legis naturæ  
docetur, et quod non  
iugum sed libertas  
est politicè regere  
populum, securi-  
tas quoque maxima  
nedum



Fortescue, in commendacion,

nedū plebi, sed et  
 ipsi regi: allevia-  
 cio etiā non mini-  
 ma sollicitudinis  
 sue, quæ ut tibi a-  
 pertius pateat, v-  
 triusq; regiminis  
 experientiam per-  
 cunctare; & a re-  
 gimine tantū re-  
 gali, qualiter rex  
 Franciæ principa-  
 tur in subditos su-  
 os exordium su-  
 merito, deinde a re-  
 galis et politicæ re-  
 giminis effectu,  
 qualiter rex Angliæ  
 dominatur in sibi  
 subiectos, popu-  
 los, experientiam  
 querere.

kyngge himselfe: & further  
 no small lychtenynge or  
 easement of his charge.  
 And that this may ap-  
 pare more evident vnto  
 you, ponder and weighe  
 the experyence of bothe re-  
 gimentes. And begynne  
 with the kyge of Fraunce,  
 perswage after what sorte  
 he rulethe his subiectes  
 by regall gouernement  
 alone. And then cōe to the  
 effect of the ioynte gouer-  
 naunce regall and poli-  
 tique, examynynge by ex-  
 peryence howe and after  
 what maner the kyngge  
 of England gournethe  
 his subiectes.

The inconueniences that happen in the royallme  
 of Fraunce broughe regall gouerne-

ment alone. Cap. 35.

And thus the first booke of the governance of  
 a prince is ended.

of the lawes of Englande Fo. 79

**C**all to remembrance,  
most worthy prince  
after what sorte you sawe  
þe wealthie villages and  
townes (as touchynge  
kozels of corne) in the roy-  
aume of Fraunce, while  
you were there a sojour-  
ner, pestered with the  
kyniges men at armes &  
their horses, so that skant  
in any of þe great townes  
there you could gett any  
lodgyng. Wherof þe  
inhabiters you learned þe  
those men, though they  
continue in one village &  
monethe or ii, do not no-  
will paye any thyng at  
all either for their owne  
charges, or for the char-  
ges of their horses. But,  
which is worse, þe com-  
mon inhabitz of þe vilages

**R**eminiscere (princeps diuine)  
qualit villas et o-  
pida regni Francie  
frugum opulētis-  
sima dum ibidem  
peregrinabaris co-  
spexisti, Regis ter-  
ror illi hominib;  
ad arma et equos  
ita onusta,  
ut vix in eorum ali-  
quib; qua mag-  
nis opidis tu hos-  
pitari valebas. Vbi  
ab incolis didicis-  
ti, hoies illos licet  
in villa vna per  
mensē aut duos  
perhēdinauerit,  
nihil prorsus pro  
suis aut equorum  
suorum expēsis sol-  
uisse, aut soluere  
velle, sed quod pe-  
ius est, ardebant  
incolas villarum  
et



## Fortescue, in commendacion

et opidorum in q̄ and to toun dwellers whe  
descēderat sibi de ther they cāe, to prouide  
vinis, carnib⁹ et a of their owne proper  
liis q̄b⁹ indigebāt, costes out of the villages  
etiā cariorib⁹ ne adioynge wyne & fleshy  
cessariis quā ibi re for them, and other thigs  
periebātur, a cir y thet needed at deater  
cumuicinis villa pices then they might  
tis, suis ppriis sum haue bought the same at  
tib⁹ puidere. Et home. And if any refused  
si qui sic facere re thus to do, they were and  
nuebāt, cōcito ful by platne stafford lawe  
tib⁹ cefi, propere forced to do it. And when  
hoc agere cōpel they had spent all the vic  
lebātur, ac demū tualtes, se well, and horse  
cōsumptis in villa meat in one towne, then  
vna victualib⁹ fo those men went to an o  
calibus et equorū ther towne wastynge the  
pbēdis, ad villā ali same in lyke maner, not  
ā homines illi pro payeyng one pennye for  
perabāt, cā cōsimi any necessities either for  
liter deuastando, themselves, oꝛ ells for their  
nec denarium v concubines and harlottcs,  
num p aliquibus whercof they euer car  
necessariis suis eti rped  
am aut concubi  
narum suarū quas  
n magna copia

of the lawes of England Fo 80

carried aboute w<sup>th</sup> the them  
great abundaunce, no<sup>2</sup> fo<sup>2</sup>  
hose o<sup>2</sup> shewes, and other  
lyke even to the least poit  
o<sup>2</sup> lace, but they compelled  
the to<sup>w</sup>nesmen, wheare  
theye carried to beare all  
theire expenses. And thus  
were al the villages and  
b<sup>w</sup>alled to<sup>w</sup>nes of that  
lande b<sup>l</sup>ed, so that there is  
not the least village there  
free from this miserable  
calamitie, but that it is  
once o<sup>2</sup> twyse every yeare  
beggered by this kynde of  
pillling. Furthermoze the  
kyng suffereth no man to  
eate salte w<sup>th</sup>in his king  
dome, ercepte he buy it of  
the kinge at suche p<sup>r</sup>ice as  
pleaseth him to assesse.  
And if any poze man had  
rather eate his meate fre-  
she, then to buy salt so ex-  
cessively deare, hee is im-

secum semp ve-  
hebant vel pro so-  
tularibus, caligis et  
aliis h<sup>m</sup>odi, vsq; ad  
minimā earū ligu-  
lā soluerūt, sed sin-  
gulas suas qualescū  
q; expēsas, hītor  
villarū vbi moras  
fecerūt soluere co-  
egerūt Sicq; et fac-  
tū est ī oībus villis  
et opidis nō mura-  
tis toti<sup>9</sup> regio<sup>n</sup> illi<sup>9</sup>  
vt nō sit ibi villula  
vna exps de cala-  
mitate ista, q̄ nō se-  
mel aut bis in āno  
hac nephāda p̄ssu-  
ra depilet. Pretere  
a nō patit<sup>r</sup> Rex qn  
quā regn<sup>i</sup> sui salē e-  
dere, quē nō emat  
ab ipso Rege, p̄cio  
ei<sup>9</sup> solū arbitrio as-  
sesso. Et si īfulsum  
paup quis mauult  
edere quā salē ex-

L. l.

cessuq



## Fortescue, in commendacion

cessiuo precio cō-  
parare, mox cōpel-  
litur ille tātū de sa-  
le regē ad ei⁹ p̄ciū  
emere, quātū con-  
gruet tot p̄sonis,  
quot ip̄e in domo  
sua fouet. Insup̄ o-  
nes regni illi⁹ īco-  
lē, dāt ōni āno re-  
gi suo quartā par-  
tē ōniū vinorū q̄ si  
bi accrescūt et oīs  
caupo quartū de-  
nariū p̄cij vinorū  
q̄ ip̄e vendit et vl-  
tra hec, ōēs villē et  
burgi soluūt Regi  
ānuatim ingentes  
sūmas sup̄ eos asses-  
sas, p̄ stipēdijs ho-  
minū ad arma, sic  
qd' armata regē, q̄  
quā magna sēp̄ est  
pascat' ānuatī de  
stipēdijs suis p̄ pau-  
peres villarū, bur-  
gorū, et ciuitatum

imediately cōpelled to buy  
so much of y<sup>e</sup> kinges salte  
at the kings price as shall  
suffice so many persones  
as he keepeth in his house.  
Moreover all the inhaby-  
ters of that royalme gee-  
ue yeaerlye to the kyng  
the folwerthe parte of all  
the wyne y<sup>e</sup> theire ground  
es beareth: and euerye  
wintener the folwerth pen-  
ney of the price of the wi-  
ne that hee sellethe. And  
besides all this euery bil-  
lage and boroughe pay-  
ethe yeaerlye to the kyng  
gre at summes of moneye  
assessed vppon them for  
the wages of men at ar-  
mes, so that the charges of  
the kings army, which is  
euer verie great, is main-  
teyned by the poore peo-  
ple of y<sup>e</sup> villages, boroug-  
hes, & towne of y<sup>e</sup> roialme.  
And

of the lawes of England Fo. 81

And yet moreouer enerye  
village findethe continu-  
all yet twoo Crossebowes  
at the lcaste, and some mo  
wth the all furnytur and  
habyliments requisite for  
the kynges seruyce in hys  
warres as ofte as it plea-  
sethe hym to muster them  
whych hee dothe verye  
ofte. And these thynges  
not considered, other ex-  
ceedynge greate tallages  
are yeatelpe assessed up-  
pon euerye village of the  
same royaume to the kyn-  
ges vse, whereof there are  
no yeaere released. The  
people beeing wth the-  
se and diuers other cala-  
mities plagued and op-  
pressed, do liue in greate  
mysery, dring water dai-  
ly. Neyther do y inferiour  
sort tast any other licoz sa-  
uig only at solēpne feasts

L. ii.

regni. Et vltra hec  
quell villa sep sus-  
tinet sagittarios du-  
os ad min<sup>o</sup>. et aliq<sup>i</sup>  
plures, in omi appa-  
ratu & abilimentis  
sufficiētib<sup>9</sup> ad ser-  
uiendū regi in gu-  
erris suis, quotiens  
sibi libet eos sumo-  
nere, qd<sup>r</sup> et crebro  
facit, ac hijs nō pō-  
deratis maxima tal-  
lagia alia sūt omi ā-  
no assessa ad opus  
regis sup<sup>r</sup> quālibet  
villā eiusdē regni,  
de quib<sup>9</sup> non vno  
anno ipsi alleuian-  
tur. Hijs et nō nul-  
lis alijs calamitati-  
b<sup>9</sup>, plebs illa laces-  
sita, ī miserianō mi-  
nima viuit aquā co-  
tidie bibit, nec ali-  
um nisi in solemnī-  
bus festis plebei  
gustant liquorē.



# Fortescue, in commendacion

Froccis sue collo  
bitis de canabo ad  
modū pāni sacco-  
rū tegūtur. Pāno  
de lana pterquāde  
vilissima et hoc so-  
lū in tunicis suis  
sub<sup>9</sup> froccas illas  
non vtuntur, neq;  
caligis nisi ad ge-  
nua, discooperto  
residuo tibiārum.  
Mulieres eorū nu-  
dipedes sūt excep-  
tis dieb<sup>9</sup> festis, car-  
nes nō comedunt  
mares aut femine  
ibidē, preter lardū  
baconis, quo ipin-  
guat pulmētaria su-  
a ī minima quātita-  
te. Carnes assatas  
coctasue alias ipsi  
nō gustant, preter  
quā interdū de ī-  
testinis et capitib<sup>9</sup>  
animaliū pro no-  
bilib<sup>9</sup> et mercato-  
ribus occisorum;

Theire shameswes are  
made of hempe, muche ly-  
ke to sacke clothe. Woole-  
len clothe theye weare  
none, excepte it bee verpe  
course, and that onelye  
in theire coates vnder  
theire sayde vpper gar-  
mentes. Neyther vse they  
anye hosen, butte from  
the knee vpinwarde: the  
residue of theire legges  
go naked. Theire wo-  
men go barefoote sauing  
on holye dayes. Neyther  
menne nor women eate  
anye fleshe there, but one-  
lye larde of bacon, wythe  
a small quantyty whereof  
they fatten theire potage  
and brothes. As for roasted  
or sodden meate of fleshe  
they tast none, except it be  
of y inwardes sometimes  
& heads of beastes y be kil-  
led for getlemē & merchāts

But

But the merrie at armes  
they deuour and consume  
all their pullein so, thepe  
haue skant the egges left  
to eate for speciall deuities;  
And if thepe fortune at a  
nye thre to growe some  
what wealthie in substa  
ce, so that any of them be  
contempted ryche, hee is by  
by charged to the kinges  
subsidie more deeply the  
any of his neighboures, so  
that within short time he  
is made equall in povertie  
with the rest of his beg  
gerlye neighboures. And  
this as I suppose, is the  
state of the common and  
rascall people of that na  
tion. But gentlemen and  
nobles are not so oppres  
sed, and ouercharged  
with exactions. Butte  
yf anye of them chaū

se d'gentes ad ar  
ma comedunt ali  
tilia sua, ita vt vik  
oua eorum, ipsis  
relinquantur pro  
summis vescenda  
delicijs. Et si quid  
in opibus eis ali  
quando accreuerit,  
quo locuplesce  
orum aliquis ceptu  
tetur, conuerso ipse  
ad regis subsidium  
plus vicinis suis ce  
teris oneratur, quo  
extunc contumelis  
ceteris ipse requa  
bitur paupertate.  
Hec ni fallor for  
ma est status gen  
tis plebane regio  
nis illius. Nobi  
les tamen non sic  
exactionibus op  
primuntur. Sed si  
eorum aliquis ca  
lumpni



Fortescue in commendacion

Iumpniatus fuerit de crimine, licet p  
 inimicos suos, non semper coram iu-  
 dice ordinario ip- se conuocari solet  
 Sed quam sepe in regis camera, et a-  
 libi in priuato lo- co, quandoque ve-  
 ro solum per iter- nuntios, ipse inde  
 aloqui visus est, et mox vt criminosu  
 cum principis con- scientia relatu ali-  
 orum iudicauerit in sacco positus, abs-  
 que figura iudicij, per prepositi maris  
 calorum ministros noctanter in flu-  
 mine proiectus submergitur, qua-  
 liter et mori audi- uisti  
 ce to bee accused of anye  
 cryme, thoughe it be by  
 hys enemies, hee is not  
 euer wonte to bee cyted  
 or called beefore an ordy-  
 narpe iudge. But ma-  
 ny tymes it hathe beene  
 seene that hee hathe in  
 that bechalse been talked  
 wythe in the kynges  
 chamber, or elswhere in  
 some priuate place, and  
 sometymes onelye bye a  
 pourseuaunte or messen-  
 ger. And immediatlye  
 as soone as the princes  
 conscience hathe throughe  
 the reporte of others, iud-  
 ged him guiltie, he is wi-  
 theout anye fashion of iud-  
 gement put in a sacke and  
 in the night season by the  
 marshals seruants hurled  
 into a riuer, & so drowned.  
 After

of the lawes of Englande Fo. 83

After which sort you haue  
 harde of manye mo put to  
 deathe, then that haue be-  
 ne by ordinary processe of  
 the lawe condemned.  
 Howe be it the princes ple-  
 sure, as saue the Ciuile  
 lawes, hathe the force of  
 a lawe. Also whyle you  
 weare abydyng in Fraū-  
 ce, and nigh to the same  
 kyngedome, you heard of  
 other greates enormities  
 lyke vnto these, and some  
 much worse then these de-  
 testable & damnable done  
 no otherwise but vnder y  
 colour of that lawe: whi-  
 che here to rehearse woul-  
 de continue oure talke too  
 longe a time. Now there-  
 fore let vs se what y effect  
 of the lawe politique and  
 regal, which some of your  
 progenitours would haue  
 chaunged into this Ciuile

uisti maiorē multo  
 numerū hominū,  
 quā q legitimo p-  
 cessu iuris cōuicti  
 extiterūt. Sed tam  
 quod principi pla-  
 cuit (iuxta leges ci-  
 uiles) legis hēt vi-  
 gorē. Etiā et alia  
 enormia hīs simi-  
 lia ac quedā hīs de-  
 teriora, dū in Frā-  
 cia et ppe regnū  
 illud conuersat⁹ es  
 audisti, nō aliquā  
 legis illius colore  
 detestabiliter dāna-  
 biliterq; ppetrata  
 q hic inferere nos-  
 trū nimiū dialogū  
 protelaret; quare  
 quid effectus legis  
 politicę et regalis,  
 quā quidam pro-  
 genitorū tuorum  
 pro lege hac ciuili  
 cōmutare nisi sūt,  
 L. lili. ope-



## Fortescue, in commendacion

Operatus est i reg-  
no Angliæ, amo-  
do visitem⁹, vt v-  
traq; legum expe-  
riencia doct⁹, q̄ e-  
arū tibi eligibilior  
sit ex earū effecti-  
bus elicere valeas,  
cū (vt sup̄ memo-  
ratur) dicat philo-  
sophus, quod op-  
posita iuxta se po-  
sita magis apparēt

hathe wrought in the roy-  
alme of Englande: that  
yowe beeynge instructed  
wythe the experience of  
bothe lawes, may the bet-  
ter by theire effectes iudge  
whether of thē ye oughte  
rather to choose. Seeynge  
the philosopher, as afoze  
is rehearsed, dothe saye, y  
contraries layde together  
do moze pfectly appeare.

*The commodities that proceede of the iointe go-  
uernement politique and regall in the roy-  
alme of Englande. Cap. 36,*

**I**N regno Angliæ  
nullus perhen-  
dinat in alterius  
domo inuito do-  
mino, si non in  
hospiciis publicis,  
vbi tunc pro om-  
nibus quę ibidem  
expēdit ip̄e plena-

**W**ithin the roſalme of  
England no man ſo-  
ourneth in an other māſ  
houſe wout y loue & y lea-  
ue of y good mā of y ſame  
houſe: ſauig in cōmen pri-  
nes, wher befoze hys dep-  
ture thence he ſhal fullye  
ſatisfy

sattisfice & paye for all his charges there. Neyther shal he escape unpunished whosoener he bee that taketh another mans goods wytheoute the good wyll of the owner therof. Neyther is it vnlawefull for anye manne in that royaume to prouide and store hymselfe of salte and othier marchaundyses or wares at his owne wyll and pleasure of any man that selleth y same. Now be it the kinge, though he y owners woulde saye nay maye by his officers take necessaries for his house at a reasonable price to be assessed by the discrecions of the constables of the towne. Neuertheles he is bounde by his lawes to paye therfore eyther presently in hande, or elles

riè soluet ante ei<sup>9</sup> abinde recessum: nec impunè quisq; bona alterius capit, sine voluntate proprietarij eorū-  
dē, neq; in regno illo prepeditur aliquis sibi de sale, aut quibuscunque mercimoniis aliis ad propriū arbitrium, et de quocunque venditore providere. Rex tñ necessaria domus sue per rationabile preciū iuxta cōstabulariorum villarum discretionem assidendum, inuitis possessoribus p officarios suos capere potest: sed nihilominus ipse precium illud in manibus, vel ad

diem



## Fortescue, in commendacion

diē p maiores officiarios domus sue limitādū, soluere p leges suas obnoxius est: quia nullius subditorū suorum bona, iuxta leges illas ipse deripere potest, sine satisfactiōe debita, p eisdē. Neq; rex ibidē p se aut ministros suos tallagia, subsidia, aut quicquid onera alia ipōnit legijs suis, aut leges eorū mutat, vel nouas condit, sine cōcessiōe vel assensu totius regni sui, in parlamento suo exp̄sso. Quare incola omnis regni illius fructibus quos sibi parit terra sua, et quos gignit pecus eius, emolumentis quoq;

at a daye to bee limited and sette by the higher officers of his house. For by his lawes he maye take awaye none of his subiectes goodes, withoute due satisfaction for the same. Neither dothe the kinge there eyther by himselfe or by his seruantes and officers leuie vpon his subiectes tallages, subsidies, or anye other burdens, or alter theire lawes, or make newe lawes without the expresse consente and agreemente of his whole royalme in his parliamente. Wherefore euery inhabiter of that royalme vsyth & enioyeth at his pleasure all the fruites that his land or cattall beareth, with all the p̄sities & commodities, which

whiche by his owne tra-  
uayle, or by the labour of  
others he gaineth by land  
or by water: not hindered  
by the iniurie or wronge  
deteynement of anye man  
but that hee shalbee allo-  
wed a reasonable recom-  
pence. And hereby it com-  
meth to passe that the  
men of that lande are ry-  
che, hauynge abundan-  
ce of golde and siluer and  
other thinges necessarie  
for the mayntenaunce of  
mans lyfe. Theye drynke  
no water, ones it bee so  
that soome for deuotion,  
and vppon a zeale of pe-  
naunce do absteyne from  
other drynkes. Theye eat  
plentyfullye of all kyn-  
des of fleshe and fysh.  
They weare fine wollen  
cloth in al their apparell.

ind

oibus: q̄ industria  
pria vel aliena ipe  
terra mariq; lucra-  
tur, ad libitū p̄pri-  
ū vtitur nulli p̄pe-  
ditus iniuria vel ra-  
pina, quin ad min⁹  
ide debitas cōse-  
tur emēdas: vnde  
inhabitātes terrā il-  
lā locupletes sunt,  
abūdātes auro, et  
argēto, etcūctis ne-  
cessarijs vite. Aquā  
īpī nō bibūt, nisi q̄  
ob deuotiōis et pe-  
nitēcie zelū aliquā  
do ab alijs potub⁹  
se abstinēt. Omni  
genere carniū et  
pisciū īpī in copia  
vescūtur, q̄bus pa-  
tria illa nō modicē  
est referta, pannis  
de lanis bonis ipsi  
induūtur, in oibus  
operimentis suis,  
etiam



**Fortescue**, in commendacion  
 etiam abundat in lectisterniis et quo  
 libet suppellectili cui lana congruit  
 in oibus domibus suis, nec non opu-  
 lenti ipsi sunt in o-  
 nibus hustilimen-  
 tis domus necessa-  
 riis culture, et o ni-  
 bus q̄ ad quietam,  
 et felicem vitā ex-  
 iguntur, secundū  
 status suos. Nec in  
 placitū ipsi du-  
 cuntur nisi coram  
 iudicibus ordina-  
 riis, vbi illi per le-  
 ges terre iuste trac-  
 tantur. Nec allo-  
 cuti siue implaci-  
 tati sunt de mobi-  
 libus aut possessi-  
 onibus suis, vel ar-  
 rettati de crimine  
 aliquo qualiter cūq;  
 magno et enormi,

Theye haue allso abun-  
 dauce of bed coueryngs  
 in their houses, and of all  
 other wollen stuffe. They  
 haue greate stoze of all  
 hustlements and imple-  
 ments of houshold. They  
 are plentifullye furnished  
 withe all instrumentes of  
 husbandry, & al other thin-  
 ges that are requisite to  
 the accomplishment of a  
 quiet and wealthie lyfe ac-  
 cording to their estates &  
 degrees. Neither are they  
 sued in y<sup>e</sup> law, but onelye  
 beefore ordinarie iudges,  
 wherebye the lawes of  
 the lande theye are iustlye  
 intreated. Neither are  
 theye arrested o<sup>r</sup> implea-  
 ded for theire moueables  
 o<sup>r</sup> possessions, o<sup>r</sup> arreigned  
 of any offence criminal be it  
 neu so great & outragious  
 but

of the lawes of Englande Fo. 86.

but after the lawes of the lande, and before the iudges aforesaide. And thys are the frutes whiche gouernement politique and regall conioyned doothe beare and brynge fourth. Whereof now we appeare euidentlye vnto yow the experiences of the effectes of the lawe, whiche some of your progenitours trauallyd to abolishe. Before allso yowe saue plainly the effects of the other lawe, whiche theye with suche earnestte endeuoure laboured to aduance and place in steade of this lawe. So that by the frutes of them bothe you maye knowe what theye are. And did not ambition, rycote, and wanton luste,

nisi secundum leges terre illius, et coram iudicibus antedictis. Et hij sunt fructus quos parit regimē politicum et regale, ex quibus tibi iam apparent experiencię effectus legis, quam quidam progenitorum tuorum ab icere conati sunt. Superius quoque tibi apparent effectus legis alterius, quam tanto zelo loco legis istius, ipsi nisi sunt inducere, vt ex fructibus earum tu agnoscas eas, et nonne ambicio, luxus, et libido, quos predicti



Fortescue, in commendacion  
 predicti pgenito- whiche poure said proge-  
 res tui regni bono nitours esteemed aboue  
 preferebant, eos the wealthe of the realme  
 ad hoc commerci- moue them to this altera-  
 um concitabant. tion? Consider therfore  
 Considera igitur moſte worthe prince, and  
 princeps optime that earnestlye this that  
 et iam alia que ſe- foloweth.

*A comparison of the worthines of bothe the  
 regiments* Cap. 37.

**S**ANCT<sup>9</sup> Thomas in libro que Re- Sait Thomas in his bo-  
 gi Cipri de regimi- ke whiche he wzote to y  
 ne principu scripsit hig of Cyp<sup>9</sup> of y regimēt  
 dicit: qd rex datur of princes, saiet y y king  
 ppter regnū, et nō is geue for y kingdome, &  
 regnū ppter regē not the kingedome for the  
 quō ōnis potestas king. Wherupon it folo-  
 regia referri debet weth that al kingelye po-  
 ad bonū regni sui, wer muste bee applyed to  
 quod effectiuē cō the wealthe of his kyng-  
 sistit in defencio- dome. Whiche thyng in  
 ne eiusdem ab ex- effecte consistethe in the  
 terorū incurſib<sup>9</sup>, defēce thoroſ frō forreyne  
 inua-

intiaſions, and in the mai-  
tenaunce of his ſubiectes,  
and their goodes from the  
iniuries and extortions of  
the inhabitauntes of the  
ſame. Wherefore that king  
whiche is not hable to per-  
forme theſe things, muſt  
of neceſſitie be iudged im-  
potent and weake. But if  
he bee ſo overcome of his  
olwe affections and luſt;  
or ſo oppreſſed wythe po-  
uertie, that hee canne not  
wytheholde his handes  
from the pyllynge of his  
ſubiectes, whereby hyin-  
ſelfe impoueriſheth them  
and ſuffereth them not  
to lyue, and to bee ſuffey-  
ned vppon their olwe  
ſubſtaunces, howe muche  
more weake or feble is he  
i this reſpect to be iudged,

et in tuicione reg-  
nicolarum, et bo-  
norum ſuorum ab  
indigenarum in-  
iurijs et rapinis.  
Quare rex qui hec  
peragere nequit,  
impotens eſt ne-  
ceſſario iudican-  
dus. Sed ſi ipſe  
paſſionibus pro-  
prijs aut penuria  
ita oppreſſus eſt,  
quod manus ſuas  
cohibere nequit a  
depilatione ſubdi-  
torum ſuorum quod  
ipſemet eos depau-  
perat, nec viuere  
ſinit et ſuſtenta-  
ri proprijs ſubſtan-  
tijs ſuis: quanto  
tunc impotencior  
ille iudicadus eſt,  
quam



### Fortescue, in commendacion

quam si eos defendere ipse non sufficerent erga aliorum iniurias? Reuera rex talis nedum impotens, sed et ipsa impotentia dicendus est, et non liber iudicari potest tantis ipotentie nexibus vinculatus. E regione rex liber et potens est, qui incolas suos erga externos et indigenas, eorum quoque bona et facultates nedum erga vicinorum et concivium rapinas defendere sufficit, sed erga proprium oppressiorem, et rapinam

then if hee weare not hable to defend them against the iniuries of others. Truelye suche a kynge maye well bee called not onelye feeble, but eeven verye feblenes it selfe: nor is not to bee iudged free, beeinge tyed with so manye bandes of feblenes. On the other syde that kynge is free and of myghte, that is hable to defende his subiectes aswell agaynste straungers as agaynste his owne people: and also theire gooddes and possessions not onelye from the violence and unlawefull inuasions of theire owne countrey, menne and neighbours, butte allso from his own oppression and ertorion, though

of the lawes of England. Fo 58

though such wilful lusts  
and necessities doe moue  
him to the contrarie. For  
who can be moze mighty  
or moze free then he that  
is hable to conquere and  
subdue not onely others  
but also himselfe?

Whiche thinge a kynge  
whose gouernaunce is  
politike can doo and euer  
dothe. Thus most wooz  
thy p<sup>r</sup>ince it appeareth  
vnto you by the effct of  
experience, that your p<sup>r</sup>o-  
genitours, whyche were  
thus mynded to renounce  
theire politike gouerne-  
ment, coulde not thereby  
not onely not obtaine the  
might and power, whiche  
they wished : that is to  
saye, increase therof, but  
rather they shoulde haue  
endaungered and great-  
lye hasarded the wealthe

licet sibi passiones  
necessitatesq; hu-  
iusmodi relucten-  
tur. Quis enim po-  
tentior liberiorue  
esse potest, quam  
qui non solum a-  
lios, sed et se ipsū  
sufficit debellare?  
quod potest et se-  
per facit rex poli-  
ticē regens popu-  
lum suum, quare  
experientiē effec-  
tu tibi constat pri-  
ceps, progenitores  
tuos qui sic politi-  
cum regimen abi-  
cere satagerunt,  
non solum in hoc  
non potuisse nan-  
cisci potentiā quā  
optabant, videli-  
cet ampliorem,  
sed et sui bonum,  
similiter et bo-  
num Regni sui,  
D. i. per



## Fortescue in commendacion

per hoc ipsi discrimini exposuissent et piculo grádiori Tamen hec quę iā de experiencię effectu practicata, potentiā regis regaliter tantū presidentis exprobrare videntur, nō ex legis suę defectu processerūt, sed ex incuria negligētiaq; taliter principātis, quare ipsa dignitate illā potentia nō minuūt, a dignitate regis politicę regulāt, quos paris esse potentię in predicto tractatu de natura legis nature luculenter ostendi. Sed potēciā regis regaliter tantū principantis difficilioris esse ex

aswell of themselves, as also of theire kingdome. Notwithstandinge these thinges nowe practised, which as touchig the effect of experience do seeme to blemishe the power of a king ruling all alone regally, neuer proceeded of the default of their law, but of h̄ carelesse demeanour, and negligent loosenes of suche a ruler.

Wherefore that dignitie is not heareby in power imbased vnder the dignitie of a politique gouernour, whiche bothe in my foresaid treatise of the nature of the law of nature I haue plainlye proued to bee in power equall.

But the premisses dooe moste euidentlye declare it to be a matter of much more difficultie for a king whose

of the lawes of England. Fo. 59

Whose rule is onely regal  
to exercise his power, and  
that bothe hee and his  
people stande in muche  
lesse securitie. And there-  
fore it were not to bee  
wished of a wise kynge  
to chaunge a politike re-  
giment intoo that gover-  
nement whiche is onely  
regall. And accordinge to  
this the foresaide Sainte  
Thomas wissheth that  
all the kingdomes of the  
worlde were ruled by po-  
litike gouernaunce.

cercij, ac minoris  
securitatis sibi &  
populo suo, illa  
clarissimè iam de-  
monstrant, quò  
optabile non fo-  
ret regi prudenti,  
regimen politicū  
pro tantū rega-  
li commutare.  
vnde et sanctus  
Thomas supradic-  
tus, optare cense-  
tur, vt omniū mū-  
di regna politicè  
regerentur.

*The Prince breaketh the Chancellours  
of his tale.*

*Cha. 38*

**B**Eare with mee I be-  
seche you good Chan-  
cellour quod the Prince,

**T**Vnc princeps  
Parce obse-  
cro Cancellarie,  
quod

*ap. 11.*



**Fortescue, in commendacion**

quod te ad tantam a proposito tuo digressionem compuli questionibus meis, michi nanque perutilia sunt quę hac occasione exarasti, licet te parumper retardauerint a meta intentionis tuę, ad quam ut tu iam celerius properes flagito, et primo ut aliquos alios casus, in quibus legum Anglię et Ciuium discrepant sententię, ut promissisti et cepisti, mihi enarres.

in that with my questiōs I haue drawē you so farr from your purpose. For the thynges whiche by this occasion you haue discussed are to me righte profitable, thoughē they haue soome whate staid you, and pulled you back from the ende of your intent. Whereunto I pray you now make haste: and first as you promised, and as you haue begonne, open vnto mee some other cases wherein the sentences of the lawes of Englande and of the Ciuile lawes do disagree.

**The seconde case, wherein the Ciuile lawes,  
and the lawes of England disagree  
in their iudgements.**

**Chap. 39.**

**Accoy**

of the lawes of England. Fo. 90

**A**ccording to your request most noble pzeice (quod h̄ Chancellor) I will open vntoo you certeine other cases wherein the saide lawes disagree. Howbeit whether of the same lawes in their iugements excelleth h̄ other, h̄ will I leaue to your own determination. The Civile law doth legitimate the childe bozne beefore matrimonie aswell as h̄ which is bozne after: and geueth vntoo it succession in h̄ parents inheritance. But to the childe bozne out of matrimonye the lawe of Englands alloweth no succession, affirmynge it to bee naturall onelye and not lawfull. The Ciuitians in this case auance theire law:

**C**ancellarius, Quosdā casus alios in quibus dissentiunt leges predictę, vt petis princeps, detegere conabor. Sed tamen quę legū earū prestantior sit in iudiciis suis, nō meo sed arbitratui tuo relinquā. Prolem ante matrimoniu natam, ita vt post legitimū, lex civilis, et succedere facit in hereditate parētū sed prole quā matrimoniu nō parit succedere nō sinit lex anglorū, naturalē tāū eā esse & nō legitimā proclamans. Ciuiliſtę in casu hoc legem eorum extollunt,

¶.iii. quia



40. Fortescu, in commendacion  
 quia incitamentum ea esse dicunt, quo  
 matrimonij sacramento cesset peccatu,  
 p qd' alias duorum anime interirent,  
 presumendum quoq; esse dicunt, tales  
 fuisse contrahentiu animos in primo  
 eoru concubitu quales esse demonstrat  
 subsequens sacramentum. Ecclesia etiam  
 fetus huiusmodi habet pro legitimis:  
 hec ni fallor tria fulcimenta sunt  
 maiora, quibus ipsi appodiat defenduntq;  
 lege suam. Ad que sic respondent  
 leges Anglie periti. primo dicunt  
 quod peccatum primi concubitus in  
 casu proposito alleginge that by  
 meane thereof the sacrament of  
 state of matrimonie comminge in  
 place, extinguishe the former sinne,  
 whereby eles the sowles of twoe  
 persones shoulde haue perished. And  
 it is to bee presumed, say they that  
 they were at theyre first copulation  
 bothe so mynded as the sacrament  
 ensuyng afterwarde declareth. The  
 church also accepteth suche chyldren  
 so legitimate. These 3 reasons are the  
 iii. strongest reasons, whereby they  
 maintaine and defende theyre law.  
 Which are thus answered by the  
 lawyers of England. Firste they saye  
 that the sinne of the first carnal  
 action in y case propounded is not  
 purged by the ma

of the lawes of England. Fo 91

matrimonie ensynge, though by the woorthynes thereof the synners punishment is somewhat abated. They saye also that they whiche thus do sinne are somuche y lesse repentaunt therefore, in as muche as they perceave the lawes to fauour and beare with suche trasgressours. And vppon this consideration they are made the redyer to committe the sinne: thereby breakinge the commaundement bothe of god and of the church. Wherefore this lawe dooth not onely participate w the offence of sinners, but also swaruetb fro the nature of a good lawe. Forasmuch as a law is a holyc stablishement, comāding thynges honest, and forbiddinge the contrarie.

non purgatur per subsequens matrimonium, licet eius merito delictum quodammodo minuat penā. Dicunt etiā quod peccati illius conscii, tanto minus inde penitet, quo leges transgressoribus illis fauere considerant. quali etiā consideratione, procliuiores ipsi redduntur ad committendum peccatum, per quod nedum dei sed & ecclesie precepta negligunt. Vnde lex illa nedum delinquentium participat culpā, sed et legis boni naturā ipsa declinat, cum lex sit factio facta iubens honesta & prohibēs contraria.

¶ Illi. qua



Fortescu, in commendacion

qualia ipsa non  
prohibet, sed poti<sup>9</sup>  
ad inhonesta ani-  
mos labentium in-  
uitat. Nec vallari  
potest lex ista per  
hoc, quod ecclesia  
fetus huiusmodi  
pro legitimis ha-  
bet. Pia nanq; ma-  
ter illa, in quā plu-  
rimis dispēsat, quē  
fieri ipsa nō cōce-  
dit, dispensatiua e-  
nim laxauit apo-  
stolus virginitatis  
frena, qd' cōsulere  
noluit, cū oēs ipse  
voluerit vt se vir-  
gines permansisse  
Et absit vt mater  
tanta a filiis suis in  
casu isto pietatem  
suā cohiberet, dū  
sepe ipsi etiā legis  
hui' civilis fomēto  
cōcitati, incidūt in  
peccatum.

Whiche this lawe dothe  
not, but rather allureth  
myndes of synners to dis-  
honestye. Neither can it  
bee anye defence to thys  
lawe, that the churche ac-  
cepteth suche chyldren for  
legittimate. For that lo-  
uynge mother dispenseth  
in many thinges, whiche  
shee licenceth to be doone  
And it was by waye of  
dispensacion that the A-  
postle set virgins at liber-  
tie, whereunto he would  
not counsel them, rather  
wyslinge all to continue  
virgines like hymselfe.  
And god forbyd that so  
greate a mother shoulde  
in thys case wythdraue  
her tender loue from her  
chyldren, whiche by the  
inticement of this lawe  
dooe manye times fall  
into sinne.

And

of the lawes of England Fo. 92

And by the matrimonye ensuyng the church is in fourmed that the parties so marryng are penitent & soz for the offence passed, and are willinge in time to come thzough matrimonie to lyue continēt. But the law of Englāde in this case woorketh a much contrarie effecte. For it prouokethe not to sinne, nor cherishethe nor mainteineth sinners, but putteth them in feare, & to keepe them from sinne thzeatneth punishment. For the wantonnesse of the fleshe hath no neede of allurement, but rather of discouragement: because the lustes of the fleshe are wanton, and almoste untamable. And sozasmuch as it is impossible for mā to liue euer in hymselfe,

peccatum. Et per matrimoniū subsequens docetur ecclesia, contrahētes penitere de preterito, et de futuro per matrimonium se velle cohibere. Sed longe alium in hoc casu lex anglicę effectum operatur, dum ipsa non concitat ad peccatum, neque peccātes fouet, sed terret eos, et ne peccent minatur penas, carnis etenim illecebre fomento nō egent, egēt vero frenis, quia irritamenta carnis lasciua & quasi infatigabilia sūt. Et homo quū indiuiduo ppetuari nequit, ppetuari natu-



**F**ortescue, in commendacion  
naturaliter appetit in specie sua,  
quia omne quod uiuit assimilari cupit  
cause prime, que perpetua est  
et eterna. Vnde fit quod plus delectatur  
homo in sensu tactus, quo seruatur  
species eius, quam in sensu gustus,  
quo conseruatur indiuiduum.  
Quare Noe ultiscens in filium qui  
eius pudenda reuelauit, nepoti  
suo, filio delinquentis maledixit,  
ut inde plus cruciaretur reus quam  
proprio possit incomodo, quare lex  
que vindicat in progeniem delinquentis,  
penaliter prohibet peccatum,  
he naturallye coueteth to lyue  
euer in his like, because euery  
liuing thing, desyreth to be lyke  
the first and chiefe cause, which  
is perpetuall & enerlasting.  
And hereof it cometh that man  
hath moze delectatione and  
pleasur in the sence of feeling,  
whereby his kind is preserued,  
than in the sence of tast, which  
preserueth onely the particuler  
man. Wherefore Noe executing  
vengeance vpon his sonne which  
vncouered his priuities, vpon  
curse his nephewe the offendours  
childe, that thereby the offendours  
might bee moze grieued then  
with his owne mischance.  
Wherefore the lawe that  
punisheth the offendours  
issue doth moze penalllye  
prohibite sinne. then

then that whiche plageth  
but the offendour alone.  
Whereby it may easelye  
bee considered with what  
zeale the lawe of Englād  
abhorreth vnlawfull con-  
iunctions, whiche doth not  
onelye iudge the childe so  
gotten to be illegitimate  
but also prohibiteth it to  
succeede in the parents in-  
heritāce. Is not this lawe  
then chaste and pure? And  
dooth it not more forcea-  
bly and more earnestlye  
suppresse sinne, then the  
foresaide Ciuile lawe,  
whiche winketh at the  
sinne of lecherie, and le-  
ueth it unpunished?

quam quę solum  
delinquentem fla-  
gellat. Ex quibus  
considerare licet,  
quanto zelo lex  
Anglię illicitos  
prosequitur con-  
cubitus, dum ex  
eis editam prolem  
ipsa nedum iudi-  
cat non esse legit-  
timam, sed et suc-  
cedere prohibet ī  
patrimonio paren-  
tū. Nunquid tunc  
lex ista casta non  
est, et non fortius  
firmiusq; repellit  
peccatum, quam  
facit lex predicta  
ciuilis, quę cito et  
quasi iultū luxu-  
rię crimē remittit.

¶ Speciall causes why base borne children  
are not legitimate in England  
by matrimony ensuing.

Chap. 40.



## Fortescue, in commendacion

**P**Reterea Leges  
 ciuiles dicūt fi-  
 lium naturalē tuū  
 esse filiū populi,  
 de quo metricus  
 quidā sic ait.  
 Cui pater est po-  
 pul', pater est sibi  
 null' et oīs. Cui  
 pat' est popul' nō  
 habet ipse patrē.  
 Et dū ples talis pa-  
 trē nō habuit tēpe  
 natiuitat' suę, quo  
 modo ex post fac-  
 to ipse patrē nan-  
 cisci poterit natu-  
 ra nouit, quo si ex  
 fornicatorib' duo-  
 bus, mulier vna fi-  
 lios peperit duos,  
 quā postea vn' ex  
 concubinariis illis  
 ducat in vxorem,  
 quis ex filiis hīs  
 duobus p' matri-  
 monium illud le-  
 gitimatur? oppi-  
 nio suader' potest

**M**ore ouer the Ciuile  
 lawes say y' your na-  
 tural o' bastard sonne is  
 y' sone of y' people. Wher  
 of a certein metricia wri-  
 teth in this wise.

To whom the people fa-  
 ther is, to hī is father none  
 & all. To whom the peo-  
 ple father is, wel fatherles  
 we may him call.

And while suche a chylde  
 had no father at y' tyme  
 of his birth, surelge na-  
 ture knoweth not howe  
 he could afterward come  
 by a father. For if one  
 woman shoulde beare  
 two childzen of twoe for-  
 nicatours, and the one of  
 them shoulde afterward  
 marrye her: Whether  
 of these twooe childzen  
 shoulde by this marriage  
 bee legitimat? Oppinio  
 may somewhat pswade,  
 but

but reason cannot fynde:  
 seeing the tyme was once  
 when bothe those chyl-  
 dzen beeinge iudged the  
 chyldezen of the people, did  
 not knowe theire fathers  
 It were therefore unrea-  
 sonable that a childe after  
 warde borne in the same  
 wedlocke, whose genera-  
 tion cannot be vnknowe  
 shoulde be disherited, and  
 that a childe whiche kno-  
 weth no father shoulde be  
 heire to the father & mo-  
 ther of the other, specially  
 in y<sup>e</sup> roialme of England  
 where the eldest sonne on-  
 ly enioieth the fathers in-  
 heritance. And an indiffe-  
 rent iudge would think it  
 no lesse unreasonable,  
 that a base borne childe  
 shoulde bee equally mat-  
 ched with a lawful begot-  
 ten childe in y<sup>e</sup> inheritace

sed ratio reperire  
 nequit, dū ambo  
 filij illi populi fe-  
 tus iudicati, semel  
 parētes ignorabāt  
 Incōsonū propte-  
 rea videret, qd' in  
 matrimonio illo  
 extūc ab eadē mu-  
 liere natus, cuius  
 generatio ignora-  
 ri nō poterit, exps  
 esset hereditatis, et  
 filius nescius geni-  
 toris sui, succede-  
 ret patri et matri  
 eius, maxime īfra  
 regnū Anglię, vbi  
 fili' senior sol' suc-  
 cedit in heredita-  
 te paterna, et non  
 minus incongruū  
 esse sētiret arbiter  
 equus, si filius ex  
 stupro, equaliter  
 pticiparet cū filio  
 ex legitīm thoro,  
 here-



## Fortescue, in commendacion

hereditatem que iure Ciuili inter masculos diuidenda est. Nam factus Augustinus xvi. li. de Ciui. dei sic scribit. Abraham oem censum suum dedit Isaac filio suo, filiis autem concubinarum dedit dationes, ex quo videtur innui quod spurii non debentur hereditas, sed victus necessitas. hec ille. Sub nomine vero spurii denotat Augustinus omnem fetum illegittimum, qualiter et sepius facit scriptura sacra que neminem vocat bastardum. Ecce differentia non minima sentit Augustinus, se-

whiche by the Ciuile lawes can bee deuoyded but onely among male children. For saint Augustine in the xvi. booke *de Ciuitate dei* wyrtethe thus. Abraham gaue all his substance to his sonne Isaac: and to the sonnes of his concubines he gaue gyftes. Whereuppon seemeth to bee ment, that to bastarde children there is noe inheritaunce due, but onely a necessary lyvinge. Thus saith hee And vnder the name of a bastard child saint Austen vnderstandeth all vnlawful yssues: & so doth holie scripture also in diuers places, callinge none by the name of a bastard. Lo, saint Austen thinketh no small difference to be, & so thinketh Abraham to, betwene

betwene the succession of  
a bastarde, and of a sonne  
lawfullie begotten. **¶** *¶* **¶**  
holpe scripture reprehendeth  
all vnlawful childre  
vnder this metaphoze,  
sayeng Bastarde slippes  
shall take no deepe roote  
no; lay any fast founda-  
tion, in the iiii. chapiter of  
the booke of wisdom. **¶**  
The churche also repro-  
ueth the same in that it  
admitteth them not to ho-  
lye orders. And if it so bee  
that the churche doe dys-  
pense w<sup>th</sup> the suche a one,  
yet it permitteth not him  
to haue anye dignitie or  
preeminence in y<sup>e</sup> church  
**¶** Wherefoze it is conue-  
nient that mannes lawe  
in the benefite of successiō  
shoulde cutte the thozte,

tit et Abraham  
inter successione  
spuriij et filij ex  
legittimo concu-  
bitu. Ceterum om-  
nes filios illegitti-  
mos reprehendit  
scriptura sacra,  
sub methaphora  
hec dicens. spuria  
vitulamina nō da-  
bunt radices altas  
nec stabile fūda-  
mētū collocabūt  
Sapientie iiii. Re-  
prehendit & ec-  
clesia que eos a sa-  
cris repellit ordi-  
nibus, et si cū tali  
dispēsauerit, nō eū  
tñ pmittit dignita-  
te preesse in eccle-  
sia dei, cōgruit id-  
circo legi homi-  
nū in successionis  
bñficio minuere,  
quos



## Fortescue, in commendation

quos ecclesia indignos iudicat sacro ordinē, et quos ipsa repellit ab omni prelatia, ipsos etiā quos scriptura sacra in natalibus minoratos iudicat a legitime procreatis. Gedeon autē virorū fortissim⁹, lxx. filios in matrimonio legitur procreasse, & non nisi vnū solū habuisse ex cōcubina, filius tñ ipse cōcubine, oēs filios illos legitimos nequit peremit, excepto vno solo. Iudicū. ix. quō in notho vno plus malicie fuisse deprehēdit quā in filiis legitimis, lxxix. Tritū enim puerbiū est

whome the Church iudgeth vnworthy to bee receaued into holye orders, and reiecteth from all prelacie: yea whome holye scripture iudgeth, as touching their birthe, much inferiour to them that be lawfullye begotten. We reade that Gedeon the puissaunt begate lxx. sonnes in wedlocke, and but one onelye out of wedlocke. Yet thys misbegotten chylde wyckedye helpe all those lawfullye begotten chyldren one onelye excepted. Judges. ix. Whereby it ys perceaued that there was more wyckednesse in one bastard chylde, then in. lxx. lawfull sonnes. For it is a common sayenge: If a

of the lawes of England. Fo. 96

If a bastard bee good, & cometh to him by chaunce, that is to wytte, by special grace, but if he be euil that cometh to him by nature. For it is thought that the base child draweth a certeyn corruption and stayne from y synne of his parentes, without his owne fault, as all we haue receaued of y synne of oure first parēts much infection, though not so much. Howebeit the blemishe which bastardes by their generation do receaue much differeth fro that wherein lawfull children are bozne. For their conception is wrought by the mutuall synnefull lust of both parēts, which in the lawfull & chaste copulations of marryed couples taketh no place. The

A. i.

si bon<sup>9</sup> ē bastard<sup>9</sup>  
hoc ei venit a casu, videlicet gratia speciali, si autē malus ipse fuerit hoc sibi accidit a natura Corruptionē nāq; et maculā quādā censetur illegittimus part<sup>9</sup> cōtrahere a peccato genitorū suorū sine culpa eius vt maximā nos cōtraxim<sup>9</sup> oēs a crimine primorū parentū, licet nō tā tā aliam tñ nothi quā legittimi cōtrahūt maculā ex genitura sua, eorū nāq; generationē mutua vtriusq; parētis libido culpabilis operatur, qualiter in legittimis castisq; āplexibus coniu-



**For**tescuc, in commendacion  
 coniugatorū, ipsa  
 nō solet debaccha  
 ri, mutuū sane et  
 cōmune ē pecca  
 tū taliter fornicā  
 tiū, quo primo si  
 milatum peccato  
 magis seuit in fe  
 tū, quā peccatū a  
 liter solitariēque  
 peccatiū, vt ex ide  
 natus, potius pec  
 cati fili<sup>9</sup> dici me  
 reatur quā filius  
 peccatorū. Quare  
 sapientiē liber ge  
 nerationes has du  
 as distinguēs, de  
 generatione legit  
 tima sic affatur. O  
 quam pulchra est  
 casta genācio cū  
 claritate: imorta  
 lis est enī memo  
 ria illius, qm̄ apud  
 deū not' ē et apud  
 homines. Altera

synne of suchē fornicā  
 tours is committed by  
 mutuall consent of them  
 bothe. Wherefore it is le  
 kened to the first synne, &  
 cleaueth moze cruelly to  
 the chylde, then the synne  
 of suchē as do other wise  
 offende alone: so that the  
 chylde so begotten deser  
 neth to be called the child  
 of synne, rather then the  
 chylde of synners. Where  
 fore the boke of wysedō  
 makynge a difference be  
 tweene these ii. genātiōs  
 of y<sup>e</sup> lausfull genātiō it say  
 ethe thus. A holwe saire  
 is a chaste generaciō w<sup>th</sup>  
 vertue. The memoriall  
 thereof is immortal: for  
 it is knowen with god &  
 with men. But the other  
 is not knowen with men

of the lawes of England. Fo. 97

so that the chylzen there  
of bozne are called y<sup>e</sup> chil  
dzen of the people. Of  
whiche base generation  
the same booke thus spea  
keth: All the chylde that  
are bozne of wycked pa  
rents are witnesses of wy  
kednes agaiſt their par  
ents when they be asked. For  
beige demaunded of their  
parents, they open their  
synne, euen as the wy  
ked sonne of Noe uncon  
cealed his fathers priuities.  
It is therefore beleued  
touchinge the blide bozne  
of whom the pharisees in  
the ix chapter of Saint  
Johns ghoſpell ſaid:  
Thou art altogether  
bozne in ſine: y<sup>e</sup> he was a  
bastarde, who wholly is  
bozne of synne. And  
where it ſoloweth:

P. ii

vero non est no  
ta apud homines  
quo filii ex ea  
nati, filii populū  
nominatur De ge  
neratione utiq; il  
la atlera liber ille  
sic dicit: ex iniquis  
ōnes filii qui nas  
cuntur, testes sunt  
nequitię aduersus  
parētes suos in in  
terrogatione sua.  
Sapiētię eodē, iiii.  
capi, interrogati e  
tenī de parētibus  
suis, eorū ipsi reue  
lāt peccatū, ut fi  
li<sup>9</sup> Noe nequā re  
uelauit pudenda  
pr'is sui. Creditur  
idcirco, cecū illum  
natū de quo Pha  
risei. Ioh. ix. dixe  
rūt, tu in peccatis  
natus es tot<sup>9</sup>, fuisse  
bastardū q<sup>i</sup> nascit<sup>r</sup>  
totaliter ex pec  
cato et dum sub



Fortescue, in commendacion

ditur et tu doces nos, videtur eos intellexisse bastar dū nō vt legitimū in naturalib<sup>9</sup> esse dispositū ad sciētiā et doctrinā. Nō igitur bene diuidit lex illa q̄ bastardos a natiuitate, et legitimos parificat in hereditate paterna, cū eos dispares iudicet ecclesia in hereditate dei, similiter et distinguat sacra scriptura in forma pnotata, diuidatq; natura in donis suis signans naturales tātū nequō quasi naturali quodam licet latente, in animis suis. Quā igitur legū istarū Anglicarū, videlicet et Ci

doest not thou teache vs. It seemeth that thereby maye be vnderstanded, ȳ a bastard hath no lyke naturall disposition to knowlege and learnyng as a lawfull chyld hath. Wherefoze that lawe maketh no good diuision whiche in the fathers inheritance makethe equal bastard children and lawfull chylde, whō ȳ church in gods inheritaunce maketh vnequall. Betwene whom also scripture putteth a differēce in foure aboue mentioned: & whō nature in her gyftes seuereth, markynge the naturall or bastard chylde as it were with a certein priue mark i their soules Whether therfoze of ȳ ii. lawes Englishe or ciuile do you now imbrace most

of the lawes of Englande Fo. 98

most noble prince, & iudge uiliū, in casu hoc  
to haue the preeminence tu princeps illust.  
in this case. trissime, aplecteris  
et iudicas p̄ferē la

The prince alloweth the lawe whiche doth not le  
gitimat chyl dren borne before

matrimome. Cap. 41.

Surely euen to that law  
do I geue the prefer  
ment, quod the prince,  
which is of more force to  
abandō synne out of the  
royaline, and to auance  
vertue. Those also in the  
benefites of mans lawe  
do I suppose abiect and  
base, whom the lawe of  
god consydereth vnwor  
thy, and whō the church  
in her benefits reiecteth  
and nature also iudgeth  
more prone vnto synne.  
I thike you do not iudge  
amply, quod the Chauncel  
lor. Wherefore I wyl re  
uerse yet other cases,

**P**rinces, Re  
uocare eam que  
forti⁹ a regno pet  
catum eliminat,  
et firmi⁹ in eo vir  
tutem conseruat.  
Arbitror etiā illos  
in legis humane  
bñficiis minoran  
dos, quos lex diui  
na indigniores cō  
siderat, et quos  
postponit ecclesia  
in beneficiis suis  
natura quibq; pcli  
uiores iudicat ad  
peccandum. Can  
cellarius, Recte es  
timo te sentire qua  
re et casus alios



200 Fortescue, in commendacion

memorabor, i qui wherein the said lawes  
b<sup>d</sup> discrepant hee disagree.  
leges duę.

*The third case wherein the lawes aforesaide  
disagree. Cap. 42.*

**L**eges civiles **T**he Civile lawes decre  
factiūt, qd p<sup>r</sup>o that the yssue euer fo-  
seper sequitur vē- loweth the wōbe, that is  
trem, vti si mulier to saye, the mother. As  
seruilis cōdicionis for example, yf a bōd wo-  
nubat vir o cōdici man be marryed to a fre  
onis liberę, Proles man, theyr issue shalbe  
eorū seru<sup>9</sup> erit, et bond. And contrarywise  
ecōūso, seru<sup>9</sup> mari if a bonde man marrie a  
tat<sup>9</sup> liberę, nō nisi free woman, he begetteth  
liberos gignit. Sed none, but free childzen  
lex Anglice nun- But the lawe of Englad  
quā matris, sed se- neuer iudgeth the issu to  
per patris condi- folowe the mothers con-  
cionē imitari par- dition, but alwaye the fa-  
rū iudicat. Vt ex thers. So that a free man  
libera etiā ex na- begetteth free children as  
tiua non nisi libe- well of a bonde woman  
rū liber generet, as of a free woman: and  
et non nisi seruū a bōde mā in wedlock cā  
in matrimonio p beget nōe other but bōd

childe. Whether of these  
lawes is better thynke  
you in theier sentences.  
It is a cruell lawe which  
without offyce subdueth  
the free mans chylde to  
bōdage. And no lesse cru-  
eltie is to be thought in y  
lawe, whiche without a-  
nye deserte oppzesseth the  
free womā's chylde with  
bōdage. Yet the Ciuitiā's  
saye that y Ciuile lawes  
in these their iudgemēt's  
do excell. For an euil tree  
saye they can not bypnye  
furthe good fruites, nor  
a good tree beare euyl  
fruites. And by the cōsēt  
of all lawes it is agreed  
that every plante yeldeth  
to the nature of y grounde  
wherein it is planted the  
chylde also hath muche  
more certē & sure know-  
lege of y mother thē of y

¶.iiii.

create potest ser-  
uū. Que putas le-  
gū harū meliorē  
in sētētis suis era-  
delis ē lex, q̄ libe-  
ri prolē sine cul-  
pa subdit seruitū-  
ti. Nec min⁹ cru-  
delis cōsetur, q̄  
liberē sobolē sine  
merito redigit in  
seruitutē. Legiste  
vero dicūt, leges  
Ciuitiles pualere in  
his iudiciis suis. Nā  
dicūt: qd non po-  
tēst arbor mala  
fruct⁹ bonos face-  
re. Neq; arbor bo-  
na fructus malos  
facere. Ac ōni le-  
gis sētētia est, qd  
plātatio q̄libet ce-  
dit solo quo īseri-  
tur. Certior quo-  
q; multo ē p̄t⁹, q̄  
eū fuderūt viscer-  
quam quis cum  
pater procreauit



## Fortescue, in commendacion

Ad hec legis Anglię cōsulti dicūt: qd, p<sup>r</sup> ex legitimo thoro nō cert<sup>i</sup> nōscit matrem quā genitorē suū. Nā am bę leges q̄ iam contendunt, vniformiter dicūt qd ipse est pater, quem nuptię demonstrāt. Nunquid tunc magis est cōueniens, vt filii cōditio ad patris pot<sup>i</sup> quā ad matris conditionem referatur, cum de cōiugatis dixerat Adā: erunt ipsi duo in carne vna. qd domin<sup>9</sup> exponēs in euangelio ait: Iam non sūt duo sed vna caro, et cum masculinum concipiat femini-

father, **W**hereunto the lawyers of Englande answer on this wyse: That a childe lawfully begotten hath no more certein and sure knowlege of y<sup>e</sup> mother then of the father. For bothe these laws th<sup>9</sup> disagreeynge, agree yet in this poynte, that he is the father, whō wedlock declareth. And is it not then more conuenient y<sup>e</sup> the condicion of the childe should haue relation rather to the fathers condicion, then to the mothers. Seynge that Adam speake of marryed couples, sayde: They shalbe ii. in one fleshe. which our lord expoundynge in the gho

pell sayethe: Nowe are they not ii. but one fleshe. And forsomuch as y<sup>e</sup> mat<sup>r</sup> as more wo<sup>r</sup>thi cōteineth the

female, then the whole  
flesh so vnited must haue  
relation to the male as to  
the woꝛthyer. wherfoꝛe  
the loꝛde called Adam &  
Eue not by the name of  
Eue, but because they  
were bothe one fleshe, he  
called them bothe in the  
name of Adam the man,  
as it apeareth in þe fift  
chapter of genesis. The  
Ciuite lawes also holde  
that women do euer glis-  
ter with the shynynge  
beames of their husbāds  
Wherfoꝛe in the title  
begynnyng with the these  
wordes: *Qui se professione*  
*excusant*, in þe nynt  
boke l. fi. the text sayeth thus.  
we auaunce women to  
the honoure of their hus-  
bandes, and with the ki-  
red of their husbādes we  
woꝛshippe the: in þe court

num, ad masculi-  
nū qd dignius est  
referri debet tota  
caro sic facta vna  
Quare Adam et  
Euam vocauit do-  
minus, non Euā,  
sed quia caro vna  
ipsi erant, ambos  
eos vocauit ipse  
nomine viri, vide  
licet, Adam: vt pa-  
tet Genesis quin-  
to capit'. Ipse quo-  
q; ciuiles leges di-  
cunt: qd mulieres  
semper coruscāt,  
radiis maritorum  
suorum. Vnde. C  
qui professione se  
excusant. libro no  
no. l. fi. text<sup>9</sup> sic lo-  
quitur: Mulieres  
honore marito-  
rum erigimus, et  
genere nobilita-  
m<sup>9</sup>, et forū ex co-  
rum



Fortescue, in commendacion

rum psona statui-  
mus, et domiciliū  
mutam<sup>9</sup> Sin autē  
minoris ordinis  
virū postea forti-  
te, priore dignita-  
te priuatē, posteri-  
oris mariti conse-  
quantur cōditio-  
nē et domiciliū.  
et cū nomē patris  
et nō matris gerat  
ples ōnis, et maxi-  
mē masculinū. Vn-  
de tūc puenir po-  
terit, qd fili<sup>9</sup> ratio-  
ne matris amitte-  
ret honorē, cōdi-  
tionemue patris  
sui mutaret, cuius  
tamē nomē ipse re-  
tinebit, p̄serti dū  
honor patris eius  
de ac conditione  
resplendeat mat-  
ei et dū viri ho-  
nor vel conditio

we decree matters to  
passe in the name of their  
husbandes, & into y<sup>e</sup> house  
and surname of their hus-  
bandes do we translate  
them. But if afterward  
a woman marrye with a  
man of baser degre, the  
leseth she her former dig-  
nitie, and foloweth the cō-  
diciō of her latter husbād  
And forsomuche as all  
childzen, specially male  
childzen bear the fathers  
name, & not the mothers,  
whercof then shoulde it  
cōe, that y<sup>e</sup> sonne by reaso-  
of the mother should lese  
the honour, or chaunge  
the condiciō of the father  
whose nāe neuerthelesse  
he shall styll keepe. Speci-  
ally seeynge the mother  
herself receaueth of the  
same father honour, woꝝ-  
shippe, & dignitie. which  
honour, woꝝshippe, and

of the lawes of Englande Fo. 101

Dignitie of the husbände  
 cā neuer be disteined or  
 ipeached thzough y fault  
 of the wyfe. Truly that  
 lawe may well bee de-  
 med cruell, which with-  
 out any cause cōmittethe  
 to bondage the free mā's  
 sonne, and which disher-  
 tinge the innocent sonne  
 of the inocent free father  
 adiudgeth his lāde to an  
 vnworthie straunger:  
 whiche also withe y base  
 state of bōdage in y sōne  
 defaceth the name of the  
 free father. Cruell also of  
 necessite must that lawe  
 be compted, which aug-  
 menteth thzaldom, and  
 diminisheth libertie oꝝ  
 freedom. Foꝝ libertie is y  
 thinge that mā's nature  
 ever coueteth. Foꝝ by mā  
 & foꝝ synne did bondage  
 first enter. But free-  
 dome is grafted in mans

nunquā p vxoris  
 vitiū denigratur.  
 Crudelis nēpe cē-  
 seretur lex que si-  
 ne causa filiū libe-  
 ri seruituti cōmit-  
 tit, et terrā p qua  
 liber ille inocēs a  
 crimine innocētis  
 filii sui titulo, non  
 sudanti tradet ex  
 traneo possidēdā,  
 ac patris nomē e-  
 tiā filii seruitutis  
 nota cōmaculat.  
 Crudelis etiā ne-  
 cessario iudicabi-  
 tur lex q seruitu-  
 tē augmentat, et  
 minuit libertatē,  
 Nam pro ea natu-  
 ra semper implo-  
 rat humana. Quia  
 ab hōi ne et p vi-  
 cio itroduct ē ser-  
 uitus. Sed libertas  
 a deo



Fortescue, in commendacion

a deo hominis est  
idita nature, Qua  
re ipsa ab homine  
sublata, seper redi  
re gliscit, vt facit  
one qd libertate  
naturali priuatur.  
Quo ipius et cru  
delis iudicandus  
ē qui libertati nō  
fauet Hec consi  
derantia Angliæ  
iura, in omni casu  
libertati dant fa  
uorē. Et licet iura  
illa iudicent eum  
seruū, quē seruus  
in coniugio ex li  
bera procreauit,  
non per hoc iura  
illa rigida, crude  
liaue sentire po  
terunt. Nam mu  
lier q̄ cōiugio ser  
uo se subiecit, fac  
ta ei caro vna, quo  
ipsa vt dicūt leges

nature of god. whereof if  
men be depriued, he is e  
uer disierous to recouer þ  
same agayne, lyke as all  
other thinges do that are  
spoiled of their naturall  
libertie. wherefore wy  
ked and cruell is he to be  
deemed that fauoureth  
not libertie. which thiges  
the lawes of England  
duely consydering, do in  
all respectes shew fauour  
to libertie. And thoughe  
the same lawes iudge hi  
thrall, whom a bounde  
man i wedlock begetteth  
of a free womā, yet here  
by cā not these lawes be  
reputed seuerie and cruel  
For a woman which by  
marriage hath submitted  
herself to a boundeman,  
is made one fleshe withe  
him. wherefore, as þ for  
said lawes determine, she  
foloweth

of the lawes of Englande Fo. 102

foloweth the state of his  
conditiō, and of her owne  
free wyllt hathe made her  
selfe a bonde womā, not  
forced thereto by the law  
muche lyke to such as in  
kynges courtes become  
bondemen, or sell theselves  
into bondage without a  
ny compulsio at all. And  
howe then can the lawe  
determine that childe to  
be free, whom suche a mo  
ther hathe thus bozne.  
For the husband can ne  
uer be in so much subtec  
tion to his wyfe, though  
she be a right greate la  
dye, as this womā is sub  
iect to the bondeman,  
whom she hathe made  
her lorde: insomuche as  
y<sup>e</sup> lorde sayeth to al wifes  
Thou shalt be vnder the  
power of thy husbande, &  
he shall haue dominion  
ouer thee. And what is it

supra scripte, eius  
consequitur conditio  
nem, et proprio ar  
bitrio se fecit an  
cillā, sed poti<sup>9</sup> ser  
uā, nullatenus a  
lege coacta, qua  
liter et faciunt q  
se seruos reddunt  
in curiis regū, vel  
in seruitutē se vē  
dunt nullatenus  
ad hoc compulsi  
Quomodo tunc  
liberū scire pos  
sūt leges filium il  
lum, quem mater  
talis, taliter est e  
nixa? nūquā enī  
sic subiectus ē vir  
uxori, licet maxi  
ma domina ipsa  
fuerit, vt subiecta  
est libera hec ser  
uo, quē ipsa fecit  
dominum eius, di  
cente domino vx  
ori omni. Eris sub  
obp. 102. 103



**Fortescue, in commendacion**  
 potestate viri, et that these Ciuilians saye  
 ipse dominabitur of the fruite of a good or  
 tui. Et quid est qd euyl tree. Is not eue-  
 dicunt legistoe illi, rywpyfe of a fre oz thral  
 de fructu arboris condition accorpynge to þ  
 bōq vel malce. nō- state of her husbād And  
 ne cōditionis libe in whose ground hathe þ  
 rōe vel seruilis est husbāde planted, while  
 vxor omnis, qua- his wyfe is one fleshe w  
 lis est maritus ei⁹? him. Not in his owne?  
 et in cui⁹ solo plā And what thē if he haue  
 tauit marit⁹, dum grafted a slyppe of a  
 vxor eius est sibi swete nature i a stock of  
 caro vna? Nonne a solwer tree: So þ þ tre  
 in pprio? quid si be his owne, shall not the  
 furculū dulcis na fruites, thoughe they eū  
 turę inseruerit ip- sauer of the stocke, be  
 se stipiti arboris his owne fruites? So the  
 acerbe: Dūmodo childe which the wyfe ba-  
 arbor illa eius est. reth is the husbādes is-  
 nōne fruct⁹ (licet sue, whether the wyfe be  
 ex stipite redolēt) free oz thral. Howbeit þ  
 sēp sint fruct⁹ ei⁹ lawes of England de-  
 Sic ex muliere ge cree that if a bondewo-  
 nita ples, mariti ē man without the cōsēt of  
 progenies, fuerit her  
 mater libera vel ā  
 cilla. Sāctiūt tñ le  
 ges Anglię, qd do

## of the lawes of Englande Fo. 102

her lord be married to a free man, though they can not be deuorced, because the gospell saith, whom god hath conioyned let not man sepearate, yet shal her lord recover agaynst the same free man all the damages that hee hath susteyned by reason of the losse of his bassall or bond woman. This now as I suppose is the somme and fourm of the law of Englande in the case now declared. What therefore is your opinion most excellent prince in the same case? And whether of these two lawes doe you esteeme to be of more worthinesse & excellencye.

min<sup>9</sup> natiue a libero i matrimonium sumptu ipso inconsulto cum eam repudiare nequeat dicente euangelio: quos deus coniunxit, homo non seperet: recuperabit versus liberum illum, omne damnum quod ipse sustinuit ratione deperditi seruicij, et amissae ancillae suae. Hec iam ut estimo, est summa et forma legis Angliae, in casu iam enarrato. Quid igitur iam tibi videtur princeps in casu isto? et quae legum predictarum praestantior aut eligibiliora te iudicatur?

The prince approueth the lawe whereby the yssue foloweth the wombe. Cap. 43.



Fortescue, in commendacion

**P** Rinceps. Anglorum legē i hoc casu, Romanorū lege prestare dubitar' nos ratio non permittit. Et optior mihi se per est lex, quę fauorē, poti⁹ quam rigorē, ptibus ad ministrat. Recolo namq; illius iuris regulā, que sic dicit: Odia pestrīgi et fauores cōuenit āpliari. Cācellarius. Et bene q̄dem. Aliū adhuc casū tibi referam, princeps, in quo, cōcertant leges inter se, et non multū postea, tūc desistāne onerosū tibi sit tātis sollicit' scismatib⁹, etiam ne infestidiū tibi veniat desceptacio mea

**R** Casō suffereth vs not to doubt, quod h̄ p̄ice but that in this case the lawe of Englande surmounteth the Romaine lawe. And that lawe is to me moze allowable, which vnto childzen sheweth fauour rather then rigour. For I remēber a rule of the lawe that sayeth. It is behouable that cruell hate be repressed, and fauour auāced. And good reasō, quod h̄ Chācellour. Wyt wyl I expōse vnto you another case wherein thes lawes are repugnant. And shortly after I wyl make an ende, least it be tedio⁹ to you to be troubled w̄ so manie disagreys & least you happē to be w̄eried with

with the mye ouer longe diutius protelata.  
talke.

The fowerth case wherein the saide lawes  
Cap. 44.

The Civile lawes com-  
mit the tuition of or-  
phanes to the next of their  
bloud, whether the kinned  
grow on the fathers syde  
or on the mothers syde,  
that is to saye, to euery  
man accordyng to the de-  
gree and order, wherein  
his fourne is nexte to suc-  
ceede the pupille in his in-  
heritance. And the reason  
of this lawe is that: that  
no man will bechaue him-  
selfe more tenderly or mo-  
re fauourably in the care  
full education of the in-  
saunte, thenne hee that  
is nexte of hys bloud.

Leges. Cuius  
impuberum tu-  
tela s, proximis de  
eoru sanguine co-  
mittunt, agnati fu-  
erint seu cognati,  
vnicuique videli-  
cet secundum gra-  
dum et ordinem  
quo in hereditate  
pupilli successurus  
est. Et ratio legis  
huius est quia nul-  
lus tenerius fauo-  
rabilibusue infan-  
tem alere sataget,  
quam proximus  
de sanguine eius.  
Tamen  
D.L.



101. Fortescue, in commendacion

Tamen longe al-  
ter de impuberū  
custodia statuunt  
leges Angliæ. Nā  
ibidem, si heredi-  
tas que tenetur in  
Socagio, descen-  
dat impuberi. ab  
aliquo agnatorū  
suorum, non erit  
impubes ille sub  
custodia alicuius  
agnatorum eius.  
Sed per ipsius cog-  
natos, videlicet  
consanguineos ex  
parte matris, ipse  
regetur. Et si ex  
parte cognatorū  
hereditas sibi des-  
cenderit, pupillus  
ille cū hereditate  
sua p proximum  
agnatū et nō cog-  
natū eius custo-  
diet. Quousq; ipse  
fuerit adultus.

Nevertheless the lawes  
of England touching the  
custodie of orphans do de-  
termine muche otherwise.  
For there if an inheritā-  
ce beeing holden in so-  
cage descend to an orpha-  
ne from anye of the kyn-  
red of his fathers side, the  
saide orphane shall not be  
under the keeping of any  
of that kynred, but he shal  
be gouerned by his cosins  
or kynnesfolke of his mo-  
thers side. And if the inheri-  
taunce come to hym fro  
anye kinsman of his mo-  
thers side, then the pupill  
with his inheritāce shall  
bee in the custodie till hee  
come to lawefull age of  
hym that is nexte of his  
kynne of his fathers side  
and not of anye kynse-  
man of the mothers syde.  
For

of the lawes of England Fo. 105

For our lawes saie, that  
to commit þe tuition of an  
infant to him þe shal next suc-  
cede him, ys lyke as if one  
shoulde bectake a lambe  
vnto a wolfe to bee de-  
uoured. Butte if the inheri-  
taunce bee not holden  
in socage, but by knightes  
seruyce, thenne by the la-  
wes of the same lande the  
childe wythe his inheri-  
taunce shall bee in the  
keepinge of none of hys  
kyndred of neyther syde,  
but in the custodie of the  
lord of the fee vntill hee  
come to þe age of one and  
twenty years. And think  
you that anye man can or  
will better instructe and  
trayne up the childe in fea-  
tes of armes, whyche by  
reason of his tenure he is  
bound to yeelde to þe lord of  
his fee, then þe lord himselfe,

Nā leges illę dicūt  
qd' cōmittere tute-  
lā infātis illi q̄ est ei  
proximē successu-  
r⁹, est quasi agnū  
cōmittere lupo ad  
deuorādū. Sed si  
hereditas illa non  
in socagio, sed te-  
neatur p̄ seruiciū  
milita', tūc p̄ leges  
terrę illi⁹, infās ipse  
et hereditas ei⁹, nō  
p̄ agnatos neq; cog-  
natos, sed per dñm  
feodi illi⁹ custodiē-  
tur, quousq; ipse fu-  
erit etatis viginti et  
vnius ānorū. Quis  
putas infāntē talē  
in actibus bellicis  
quos facere ratioe  
tenurę suę ipse as-  
tringitur dño feo-  
di sui, meli⁹ instru-  
ere poterit, aut ve-  
li⁹ quam dñs ille,  
D. ii. cui



Fortescue, in commendacion

cui ab eo seruici-  
um tale debetur?  
et qui maioris po-  
tentie et honoris  
estimatur. q̄ sunt a-  
lij amici et p̄pinq̄  
tenentis sui? Ipse  
nāq; vt sibi ab eo-  
dē tenente melius  
seruiatur, diligen-  
tem curam adhi-  
bebit, et melius in  
his eū erudire ex-  
pertus esse cense-  
tur, quam reliqui  
amici iuuenis, ru-  
des forsā et armo-  
rū inexperti, max-  
ime si nō magnū  
fuerit patrimoniū  
eius. Et quid utili-  
us est infanti qui  
vitam et omnia su-  
a periculis belli-  
cis exponet in ser-  
uicio domini sui  
ratioe tenurę suę,

to whom suche seruice is  
by him due? Whiche is  
also to bee iudged of mo-  
re polwer, and honoure  
thenne the friendes and  
kynessfolkes of his tenant.  
For hee to the intente hee  
maye in tyme to come bee  
the better serued of hys  
tenaunte. wyll vse the  
more diligence towarde  
hym. And it is to bee pre-  
sumed that he is more ex-  
perte and skylfull to tra-  
de him in this thynges;  
then his other friends ru-  
de peraduenture and vn-  
practised in martiall feats  
specialllyc yf his patrimo-  
nie bee but small. And  
what can be more profit-  
able for the chylde, whiche  
by reason of hys tenure  
shall in the seruice of hys  
lorde endaunger his life,  
and all

of the lawes of Englande Fo. 106

and all that hee hathe in quam in militia  
the actes of chivalrye, the actibusque belli  
in his nonage to be brou- cis imbui, dum  
ghte vppe in the discipline minor est, cum  
and practise of the same, actus huiusmodi  
seeynge that in his rype ipse in etate matu-  
age hee shall not bee ha- ra declinare non  
ble to auoyde the aduen- poterit. Et reue-  
ture thereof. And to save ra non minime e-  
the trueth it shall bee no rit regno accomo-  
small commoditie for the dum, vt incolę e-  
royalme, & the inhabters ius in armis sint  
of the same be well expert experti. Nam vt  
in the knowledge of ar- dicit Philo. audac-  
mes. For as saith the phi- ter quilibet facit,  
losopher, euerye man do- qd' se scire ipse  
the the thyng boldelye, non defidit. Nun-  
wherin he assureth hysel- quid tunc legem  
se to be skylfull. And do you hanc tu approbas  
not the most noble prince fili regis, et collau-  
allowe this lawe and com- das super legem al-  
mende it aboue the other teram iam descrip-  
now described. tam.

D.iii.



Fortescue, in commendacion  
¶ Here the prince commēdeth the education of noble mens children beinge orphanes. Cap. 45.

**P**Rinceps. Immo Cancellarie legem hanc, plusquā alteram, ego laudo. Nam in eius parte prima, quam tu notasti, cautē magis quam ciuilis ipsa prouidet securitati pupilli. Sed tamen in eius parte secunda, multo magis ego delector. Nam ab ea est quod in Anglia, nobilium progenies de facili degenerari non potest, sed probitate potius, strenuitate, et morum honestate antecessores suos ipsa transcendet, dum in altiori, nobiliorique curia,

**Y**Es good Chauncelour, quod y price, this lawe I do allowe much more the the other. For in the firste parte of it whiche you noted, it prouideth much more warily for the securitie and sauegarde of the pupill, then the Ciuile lawe dothe. Howbeit in the seconde parte of the same I do take more deelyte. For thereof it comethe to passe that in Englande noble mens chyldren canne not easelye degenerate, butte rather passe and surmount their auncestours in vertue, in courage, and in honest condicions, forsomuche as theye are broughte vp & instructed in an higher & an honozabler court, then

thence in the houses of  
theire parentes, though  
theire parents weare par-  
adventure broughte vpp  
in the lyke places. For  
theire parents house was  
never yet lyke the lordes  
house, to whome as well the  
parentes, as also the chil-  
dren serued. The princes  
also of the royalme bee-  
yng ruled bye the lawe,  
and lyke wyse other  
lordes holdynge theire  
lande immediatlye of the  
kyng, came not lightely  
fall to wantonnes and in-  
seemlynnes, seeyng that  
in theire chyldehoode, whyle  
theye bee orphans they  
are broughte vpp in the  
kynges house. Therefore  
I muste needs helpe  
people & comons by the  
lawe to be made

qua in domo pa-  
rentum illa sit im-  
buta, licet in domo  
consimili forsan  
parentes eius edu-  
cati erant: Quia  
consimilis adhuc  
non erat, domus  
parentum illorum  
domus domini-  
orum, quibus ipsi pa-  
rentes et ipsi infan-  
tes seruierunt. et  
Principes quoscumque  
regni sub hac lege  
regulati, similiter  
et domini aliorum  
ge immediate tenen-  
tes, non possunt de-  
loqui in iusticiariis  
raditacionibus habi-  
tum in iusticiaria  
dum orphani fue-  
rint ipsi, in domo  
regia nutriti sunt.  
Quare non in istis  
domibus



Fortescue, in commendacion

domus regis opulentiā magnitudinēq; collaudo, dū in ea ginpnaſiū ſupremū, ſit nobilitas regni Scholaque ſtrenuitatis, pbitatis et morū quibus regnum honoratur, et florebit, ac contra irruentes ſecuratur, etiā formido ipſa erit inimicis et amicis regni. Hoc reuera bonū accidiffe nō potuiſſet regnō illi, ſi nobilium filij, orphani et pupilli, per pauperes amicos parentum ſuorum nutrentur. Nec regni bono officere poteſt, licet burgēſium filij et aliorū liberes tenentium

and high porte of the kinges court, in that it is the chiefest ſchole within the royaume ſoꝝ the nobilitie of the lande. It is alſo the ſcholehouſe of manhoode, of vertue, and of good manners, wherby the royaume is honored and flouriſherh and is preſerued againſte inuaſions: ſo y it is dreadd bothe of friends and foes. And to bee plain this greate commoditie coulde not haue happened to the royaume, yf noble mens children beeinge orphans and pupilles hadde beene nourished and brought vp by the poore friends of their parentes. Neyther canne this bee prejudicial or hurtfull to the wealthe of the royaume, that the children of burgeses, and

of the lawes of Englande Fo. 108

and of other freeholders, whiche holde their tenementes in socage, and are not thereby bound to warfare, are brought up in the houses of their like friends, as to him y<sup>e</sup> shall thoroughly weigh the matter it may evidently appeare.

¶ Yet he rehearseth other cases wherein the forsaide lawes differ. Cap. 46

**T**here bee yette diuers other cases, quod the Chaunceloure, wher in the lawes aforesayde do varye. As in that the Ciuile lawes do iudge open thefte to bee satisfied by the recompence of fouer folde, & priuie thefte by the recompence of double. Butte the lawes of

q<sup>uod</sup> in focagio tenet tenementa sua, quo ipsi ad militiam non astringuntur, in domo consimilium amicorum suorum educantur ut perspicue considerati lucide apparere potest.

**T**unc Cancellarius. Sūt et alij casus nonnulli in quibus differunt leges antedictę, Vt q<sup>uod</sup> a legibus Ciuiles iudicant furtum manifestum per reddicionem quadrupli, et furtum non manifestum, per dupli compensationem expiari. Sed leges Anglię



## Fortescue, in commendacion

Angliæ, neutrum  
facinorum illorū  
mitius quam com-  
mittentis morte  
puniri permittunt  
dummodo ablati  
valor duodecim  
denariorū valorē  
exceedat. Itē liber-  
tinum ingratum  
leges ciuiles in pris-  
tinā redigūt serui-  
tutem: sed leges  
Angliæ semel ma-  
numissū, semper  
liberum iudicant  
gratum et ingra-  
tum. Alij quoque  
sunt casus huiusce  
modi non pauci,  
quos iam studio  
breuitatis pretereo.  
Et neq; in his du-  
obus casibus pre-  
dictarum legum  
prestancias ego iā  
describo, cum nō  
magis sit idaginis

Englande suffer neither  
of those offences to be mo-  
re sauozablye punished  
then woth the offendours  
deathe, so that the value of  
the thynge stolen bee abo-  
ue the value of twelue pē-  
ce. Also a libertine that is  
to saye, a free man that  
sometyme was bonde, yf  
hee beecome vnkynde or  
churlishe, the Ciuile la-  
wes reduce hym into hys  
former state of seruitude  
again. But by the lawes  
of Englande he that is on-  
ce made free, he hee grate  
or ingrate, is adudged to  
enioye his freedome styll.  
There be other like cases  
also not a few, whiche  
at this tyme for breuities  
sake I ouerpasse. For hee  
in these twoo cases doe I  
dispute the excellencye  
of the foresayde lawes,  
seeing

seevinge the qualitties of  
the requier no great fear-  
the. And I doubt not but  
the quicknes of your witte  
is suche, y it can sufficiēt-  
ly discusse the same.

*The prince regardeth not the cases nowe  
rehearsed.* Cap. 47.

**N**o: it booteth not  
good Chauncelloure  
herein muche to tarpe,  
quod the prince. For  
though in Englande as  
well open as pryvy thee-  
ues are commenlye putte  
to deathe, yette ceasse they  
not there from stealyng,  
as thoughe theye hadde  
no feare of so greate a pu-  
nishement. Wolde much  
lesse then wouid they  
holde their hands fro theste

eorum qualitates  
nec diffido inge-  
nij tui solerciam  
eas sufficiēter pos-  
se rimari.

**P** Rinceps. Nec  
expedit Cano-  
cellarie in hijs mul-  
tum suadere: quia  
licet in Anglia, fu-  
res clandestini et  
manifesti passim  
morti plectantur,  
non cessant ipsi i-  
bidem omnino f-  
dari ac si penam  
tantam illissime  
formidarent. Quā-  
to tunc minus se  
abstinerēt a crimine  
si pe-



Fortescue, in commendacion

si penam preuide-  
rent mitiorem? Et  
absit a seruitute se-  
mel euasum, sem-  
per deinde sub mi-  
nis tremere serui-  
tutis, maxime in-  
gratitudinis colo-  
re, cum ingrati-  
tudinum species, vix  
poterint pre mul-  
titudine numerari  
et humana natura  
in libertatis causa,  
fauorem semper  
magis quam in  
causis alijs depre-  
cetur. Sed iam  
Cancellarie, ob  
nixè te imploro,  
vt amodo amisso  
plurium casuum  
huiusmodi exami-  
ne, michi edicas,  
quare leges An-  
glię tam bone, fru-  
gi, et optabiles in

if the foresa<sup>w</sup> once y<sup>e</sup> y<sup>e</sup> pu-  
nishmēt were mitigated?  
And godde forbid that hee  
whyche once hath escape  
ped miserable seruitude  
should euer after tremble  
and quake at the threat-  
nynges of bondage, speci-  
allye vnder the coloure of  
ingratitude o<sup>r</sup> vnkindnes  
seeynge the kyndes of in-  
gratitude are so manye  
that they can skante well  
be numbred: and mans na-  
ture in the cause of liberty  
o<sup>r</sup> freedom moze then in  
other causes requireth fa-  
uour. Wherefore at this  
tyme, good Chauncellour  
I beseeche you hartelye  
medle no moze withe the  
examination of any suche  
cases. But now explaine &  
opē vnto me why y<sup>e</sup> lawes  
of England being so good  
so

of the lawes of Englande Fo. no

so fruitefull, and so commodious, are not taughte in the vniuersities, as the Ciuille and Cannon lawes are, and whye in the same none are commended bachelers and doctours as in other faculties and sciences it is accustomed.

vniversitatibus nō docētur, vt Ciuiles similiter et canonū leges: et quare in eisdē nō dantur baccalariatus et doctoratus gradus vt in alijs facultatib⁹ et sciētijis est dari cōsuetum.

¶ Here the Chancelour sheweth why the lawes of Englande are not taughte in the vniuersities. Cap. 48.

In the vniuersities of Englande, quod the Chancelour, sciēces are not taughte butte in the latine tonge. And the lawes of that land are to be learned in thre senerall tonges, to wytte, in the English tongue, & french tōgue, & & latine tongue.

**C**ancellari⁹. In vniversitatibus Anglie non docentur scientie nisi in latina lingua: et leges terre illius in triplici lingua, addiscuntur, videlicet Anglica, Gallica, et Latina.

An-



## Fortescue, in commendacion

Anglica, quia inter Anglos lex illa maxime inoleuit. Gallica, quia postquam galli, duce VVilhelmo Angliæ conquestore terrâ illâ optinuerunt, nō pmiserunt ipsi eorū aduocatos placitare causas suas, nisi in lingua quā ipsi nouerunt, qualiter et faciūt oēs aduocati in Frácia etiā in curia parlamēti ibidē. Cōsimiliter gallici post eorū aduentū in Angliā, ratio cinia de eorū prouentibus non receperunt, nisi in proprio idiomate ne ipsi inde deciperēt. Venari etiā, et iocos alios exercere, vt talorū et

In the Englishe tongue, because that law is moste blessed, and longest continued amongst the English men. In the Frenche tongue, because that after the French menne vnder William the conqueror of Englande hadde obteyned the lande, they suffred not theire men of lawe to pleade their causes, but in the tongue whiche theye knewe, and so doe all the men of lawe in Fraunce yea in the courte of parliament there. Lykewise the Frenchemen after their cōmyng into Englaunde ceaued not the accōptes of their reuenues, but in their own language, leaſt theye should be deceaued therein. Neither had they delyte to hunte, & to exercise other sportes & pastimes, as dice play

of the lawes of Englande Fo. 11

playe, and the hand balle, but in their owne proper tonge. Wherefore y<sup>e</sup> Englishe mē by much vsing of their cōpanie, grewe in suche a pfectnes of the same language, y<sup>e</sup> at this day in suche playes & accomptes they vse the Frenche tongue. And theye were wonte to pleade in Frenche, tyll by force of a certeine statute that manner was muche restrained. But it could neuer better to be whollye abolished; as wel by reason of certein termes, whiche pleaders do more properly expresse in Frenche, therein Englishe, as also for that declarations bypon originall writtes can not bee pronounced so agreeably to the nature of those writtes as in Frenche.

And

pilarū ludos, nō nī  
sī in p̄pria lingua  
delectabāt. Quo  
et Anglici ex fre-  
quētiōrū i talib⁹  
cōmītiis, habitū ta-  
lē contraxerūt, qd̄  
hucusq; ipsi i ludis  
hūmōdi et cōpotis,  
linguā loquuntur  
galicanā et placit-  
tare in eadē lingua  
soliti fuerūt quous-  
que mos ille, vigo-  
rō cuiusdā statuti  
quā plurimum res-  
trict⁹ ē, tū in toto  
hucusq; aboleri nō  
potuit tū ppter ter-  
minos quosdā, quos  
pl⁹ p̄prie placitan-  
tes in gallico, quā  
in Anglico, expri-  
mūt, tūc qā decla-  
ratiōes sup breuior  
originalia, tā cōue-  
niēt ad naturā bre-  
uiū illorū p̄nūcia-  
ri neqūt vt i gallic



Fortescue, in commendacion

sub quali sermone  
declarationū hu-  
iusmodi formulę  
addiscuntur. Re-  
portatur etiā ea q̄  
in curijs regijs pla-  
citantur, disputan-  
tur, et iudicantur  
ac in libros ad fu-  
turoꝝ preditionē  
rediguntur, in ser-  
mone semper gal-  
lico. Quā plurima  
etiā statuta regni  
illius in gallico cō-  
scribuntur. Vnde  
accidit qđ lingua  
iā in Francia vul-  
garis, non concor-  
dat aut confimilis  
est gallico inter le-  
gis peritos Anglię  
vſitato, sed vulga-  
ri quadam rudita-  
te corrupta. Quod  
fieri non accidit  
in sermone gallico  
sicut in illis  
illis in vſu non in

And vnder the same spee-  
che the fourmes of suche  
declaracions are learned.  
Wherewith all pleas, argu-  
ynges, and iudgements  
passed in the kings courts  
and entred into booke  
for the instruction of them  
that shall come after, are  
ever more reposed in the  
Frenche tongue. Many  
statutes also of that roy-  
alme are written in Fren-  
che. Wherof it happe-  
neth that the commē spee-  
che now vsed in Fraunce  
agreeth not, nor is not  
like the Frenche vsed a-  
monge the lawyers of  
Englond, butte is by a  
certeine rudenes of the co-  
mū people corrupted.  
Which corruptiō of spech  
chaunceth not in Frenche  
as it doth in Englysh  
because the Frenche  
people are more  
careful to kepe  
the purite of  
their spech  
than we be.

of the lawes of England. Fo ii2

that is vbled in England, for so much as that spech is there oftener witten then spoken. Now in the thirde of the saide iii. tongues, whiche is the latine tongue are witten all wittes originall and iudiciall: and likewise all the records of ples in the kinges courtes, with the certeine statutes also.

Wherefore while y<sup>e</sup> lawes of England are learned in these three tongues, they cannot conveniently be taught or studied in y<sup>e</sup> vniuersities, where onely y<sup>e</sup> latine tongue is exercised. Notwithstandinge the same lawes are taught & learned in a certein place of publique or comen study more eduenient & apte for attaining to y<sup>e</sup> knowledge of them, then anye other vniuersitie.

infra Angliā vñta to, cū sit sermo ille ibidē sepius script<sup>us</sup> quā locutus. Sub tertia vero lingua rū predictarū, vñ sub latina, oīa brēuia originalia & iudicialia, similiter et oīa recorda placitorū in curiis regū, etiā et qdā statuta scribūt. Quare dū leges Anglię in his tribus addiscūt<sup>ur</sup> linguis, ipse in vniuersitatib<sup>us</sup> vbi solū latina excercet<sup>ur</sup> lingua, cōueniēter erudiri nō poterūt aut studeri. Leges tñ illę, i quo dā studio publico pillarū apprehēsiōe (oī vniūsitatē cōueniētiore et p<sup>ro</sup> more) docēt et addiscūt. P.i.



## Fortescue in commendacion

Studiū nāq; istud, situm est prope curiam regis, vbi leges illę placitāt disputātur, et iudicia p̄ easdē reddūtur, p̄ Iudices, viros graues, senes, i legib⁹ illis peritos et graduatos. quō i cur' illis ad quas oī die placitabili cōfluūt studētes in legibus illis, quasi i scolis publicis leges illę leguntur et docent'. Situat' etiā studium illud inter locū Curiarū illarū, et ciuitatē Lōdōn, q̄ de oībus necessariis opulētissimū est, oīū ciuitatū et opidorū regni illi⁹. Nec in ciuitate illa vbi cōfluentiū turba,

For this place of study is situate nighe to þ kinges courtes where the same lawes are pleaded and argued, & iudgementes by the same geuen by iudges menne of grauytie, auncient in yeares, perfecte and graduate in the same lawes. Wherefore euery daye in courte the studentes in those lawes resorte by greate numbers vnto those courtes, wherein the same lawes are redde & taught as it were in cōmon scholes.

This place of study is set betwene þ place of þ said courtz & þ Citie of Lōdō, which of al thigs necessarie is þ plētifullest of all þ cities & toowns of þ realm. So þ þ said place of study is not situate wīn þ citie, where

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where the confluence of people might disturbe the quietnes of the studentes but somewhat seueral in the suburbes of the same Citie, and nigher to the saide courtes, that the studentes maye daylye at theire pleasure haue ac-  
cesse and recourse thether without wearines.

studentium quietē perturbare possit situm est studium istud, sed seorsum parumper, in ciuitatis illius suburbio, et proprius Curiis predictis, vt ad eas sine fastigii in-  
comodo, studentes indies ad libitum accedere valeant.

¶ Here he declarcth the disposition of the general study of the lawes of Englande, and that the same in number of studentes passeth certein vniuersities. Cha. 49.

But to þ intent most excellēt prince ye maye conceaue a fourme & an ymage of this study, as I am able I will describe it vntoo you. For there bee in it tenne lesser houses or ynnes, & somtymes more,

Sed vt tibi constet, princeps huius studii forma & ymago, illā vt valeo iā describā. Sūt nāq; ī eo decē hospiciū minor et quādoq; vero plura,  
P. ii. quē



### Portescue in commendacion

que nominantur  
hospitia Tācellar'  
ad quorū quodli-  
bet p̄tinēt centum  
studentes ad min'  
et ad aliqua eorū  
maior ī multo nu-  
merus, licet nō oēs  
semp in eis simul  
cōueniāt. studētes  
etenim isti p̄ eorū  
parte maiori, iuue-  
nes sūt, originalia  
et quasi legis ele-  
mēta addiscentes,  
qui in illis p̄ficien-  
tes, vt ipsi matu-  
rescunt, ad maiora  
hospitia studij illi'  
que hospitia curiē  
appellantur, assu-  
mūtur. Quorū ma-  
iorū quatuor sunt  
ī numero, & ad  
minimū eorum, p̄-  
tinēt in forma pre-  
notata, ducēti stu-  
dētes aut prope.

whychē are called ynnēs  
of the Chauncery. And to  
euerie one of them belon-  
geth a C. students at the  
least, & to some of them a  
muchē greater number,  
though they bee not euer  
all together in the same.  
These students, for the  
most part of thē, are yong  
men, lerning oꝝ studyng  
ȳ originals, & as it were  
ȳ elements of ȳ law. who  
profiting therein, as they  
growe to ryppenes, so are  
they admitted into ȳ grea-  
ter ynnēs of the same stu-  
dy, called ynnēs of court.  
Of the whiche greater  
ynnēs there are. iiii. in  
number. And to the lest  
of them becomgeth in  
fourme aboue mentio-  
ned twooe hundrethe  
students oꝝ thearea-  
boutes.

of the lawes of England. Fo 114

For in these greter ynnys there can no student bee maintained for lesse expēses by the yeaer then xx. markes. And if he haue a seruauit to waite vppon him, as moſte of the haue then ſo muche the greater will his charges be. Now by reaſon of this charges the childzen onely of noble menne doo ſtudy the lawes in thoſe ynnys.

For the poore and comen ſorte of the people are not hable to beare ſo greate charges for the exhibition of theire childzen. And marchaunt menne can ſeele doome fynde in theire heartes to hynder theire marchandiſe with ſo greate perly expenſes. And thus it falleth out y there is ſcant any manne founde within y roialme

In his enim maioribus hoſpiciis, nequaquā poteſt ſtudent aliquis ſuſtētarī minoribus expēſis in anno; quā octoginta ſcutorū et ſi ſeruientē ſibi ipſe ibidē habuerit, vt eorū habet pluralitas, tanto tunc maiores ipſe ſuſtinebit expēſas.

Occaſione vero ſūptuū huiusmodi tū ipſi nobilium filij in hoſpitiis illis leges addiſcūt.

Cum pauperes et vulgares, pro filiorū ſuorū exhibitione tātos ſūpt<sup>u</sup> neq̃ant ſufferre. Et mercatores raro cupiāt tātis oñib<sup>u</sup> annuis, attenuare mercādifaſ ſuaſ.

P. lli. Quo



### Fortescu, in commendacion

Quo fit, vt vix do-  
ctus in legibus il-  
lis reperiatur in re-  
gno, qui non sit  
nobilis et de nobi-  
lium genere egres-  
sus. Vnde magis a-  
liis consimilis sta-  
tus hominib<sup>9</sup>, ipsi  
nobilitatem cu-  
rant et conserua-  
tionē honoris &  
fame sue. In his re-  
uera hospiciis ma-  
ioribus, etiam et  
minoribus vltra  
studium legum,  
est quasi gimnasi-  
um omnium mo-  
rum qui nobiles  
decent. Ibi cātare  
ipsi addiscunt, si-  
militer et se excer-  
cent in omni ge-  
nere harmoniē.  
Ibi etiam tripudi-  
are ac iocos sin-  
gulos nobilibus

skilfull and connynge in  
the lawes, excepte hee bee  
a gentleman bozne, and  
come of a noble stocke.

Wherefoze they more  
then anye other kinde of  
menne haue a special re-  
garde to theire nobilitie,  
and too the preservation  
of theire honour & fame  
And to speake vprightly  
there is in these greater  
ynnes, yea and in the  
lesser too, besyde the study  
of the lawes, as it were  
an vniuersitie or schole of  
all commendable quali-  
ties requisite for noble  
men. There they learne  
to singe, and to exercise  
themselves in all kinde of  
armony. There also they  
practise daunsing, and o-  
ther noble mennes pas-  
times, as they vse to doe  
which

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which are brought vpppe  
in the kinges house.

On the woorkedayes  
the mosse parte of them  
applye themselues to the  
studye of the lawe. And  
on the holypedayes to the  
studie of holye scripture:  
and out of the tyme of di-  
uine seruice to the rea-  
dyng of chronicles. For  
there in deed are vertues  
studyed, and all vices ex-  
iled. So that for the en-  
dowement of vertue,  
and abandoning of vice  
Knights and Barons,  
with other states and no-  
ble menne of the roialme  
place theire childzen in  
those ynnys, though they  
desire not to haue them  
learned in the lawes, nor  
to lyue by the practyse  
therof, but only vpon their  
fathers allowaunce.

cōuenientes, qua-  
liter in domo re-  
gia excercere so-  
lēt enutriti, in feri-  
alibus dieb<sup>9</sup> eorū  
pars maior legalis  
discipline studio,  
et in festiualibus  
sacre scripture, et  
cronicarū lectioni  
post diuina obse-  
quia se cōfert Ibi  
quippe disciplina  
virtutū est, et vici-  
orū oīm relegatio  
Ita vt ppter vir-  
tutis acquisitionē  
vicij etiā fugā mi-  
lites, barones, alii  
quoq; magnates  
et nobiles regni, ī  
hospiciis illis po-  
nūt filios suos, quā-  
uis nō gliscāt eos  
legū imbui discipli-  
na, nec ei<sup>9</sup> exerci-  
tio viuere, sed solū  
ex patrociniis suis.

P.iiii.

Ibi



Fortescu, in commendacion

Ibi vix vnquam seditio, iurgium, aut murmur resonat, et tamen delinquentes non alia pena, quam solum a communione societatis sue amoci one plectuntur, quia penam hanc ipsi plus formidat quam criminosi alibi carcerem timet aut vincula, nam semel ab vna societatu illaru expulsus, nunquam ab aliqua ceterar' societatum earundem recipit in socium quo ibi pax est continua et quasi amicitia coniunctorum est eorum omnium conuersatio. Formam vero qua leges illae in his discuntur

Skante at anye tyme ys there harde among them any sedition, chydynge or grudginge. And yet the offendours are punished with none other paine, but onclye to be amoued from the cōpany of their felowshippe. Whiche punishment they doe more feare, then other criminal offenders doe feare imprisonment and yrons.

For hee that is ones expelled fro any of those felowships is neuer receaued to be a fellow in any of the other felowshippes And so by this meanes there is cōtinual peace: & theire demeanour is like the behauiour of suche as are coupled together in perfect amitie. But after what manner & sorte the lawes

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lawes are learned i those  
 ynners, thereof heere too  
 make rehersall, it is not  
 needeful, fo: somuche as it  
 is not fo: your estat most  
 noble Prince to putte the  
 same in vze. Yet knowe  
 ye this, that it is pleasant  
 and delectable, and in any  
 wise expedient fo: the  
 learninge of the law, and  
 worthy with all affection  
 to bee embraced. But one  
 thig ther is that I would  
 haue you to knowe, that  
 neyther at Oyleaunce,  
 where aswel the Canon  
 as the Civyle lawes are  
 taughte, and whether  
 out of manye Countreys  
 scholars doe repayre, no:  
 at Angeo, o: at Cane, o:  
 any vniuersity of France  
 (Paris onelye excepted)  
 are founde so many stu-  
 dentes past chylthood,

hospiciis, hic ex-  
 primere non expe-  
 dit, cum tibi prin-  
 ceps eam experiri  
 non liceat. Scito  
 tamen quod de-  
 lectabilis ipsa est,  
 et omni modo ex-  
 pediens legis illius  
 discipline, omni  
 quoque affectio-  
 ne digna. Vnum  
 tamen te scire de-  
 sidero, quod neq;  
 durenianisvbi tam  
 Canones addis-  
 cuntur, quam Ci-  
 uiles leges, et quò  
 a quamplurib<sup>9</sup> re-  
 gionib<sup>9</sup> còfluunt  
 scolares, neq;  
 Andaganis, aut i Ca-  
 damo, aliaue vni-  
 uersitate Francie,  
 preterquàm solum  
 Parisiis, reperiunt<sup>r</sup>  
 tot studentes in-  
 fantiam euasi :



Fortescue, in commendacion  
 sicut i hoc studio as in this place of studye,  
 licet ibi addiscetes notwithstanding y al y stu-  
 oēs solum ab An- detes there are Englishe  
 glia sint oriūdi. bozne.

*¶ Of the estate and degree of a Seriant at lawe, &  
 howe he is created, Cap. 50.*

**S**Ed cū tu prin-  
 cepts, scire desi-  
 deres, cur i legib<sup>9</sup>  
 Anglię nō dantur  
 baculariat<sup>9</sup> et doc-  
 toratus gradus si-  
 cut in vtroq; iure  
 in vniuersitatibus  
 est dare consuetū  
 Scire te volo, qd'  
 licet gradus hmoi  
 in legibus Anglię  
 minime cōferatur  
 datur tamen in il-  
 lis nedum gradus,  
 sed et status qui-  
 dam, gradu doc-  
 torat<sup>9</sup> nō min<sup>9</sup> ce-  
 lebris aut solēnis,  
 qui gradus serui-

**B**Ut forsomuch as you  
 desier to knowe, most  
 gracious Prince, for what  
 cause the degrees of ba-  
 chelars and doctours are  
 not geuen in the lawes  
 of Englande, as they are  
 accustomablye geuen in  
 bothe lawes within vni-  
 uersities, youre maiestie  
 shall vnderstande that  
 though these degrees are  
 not geuen in the lawes  
 of England, yet there is  
 geuen in them not a de-  
 gree only, but also a state  
 no lesse worshipfull and  
 solempne then the degree  
 of

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of doctours: which is cal-  
led the degree of a Ser-  
fant at lawe. And it is ge-  
uen vnder the manner &  
fourme following. The  
lorde chiefe Justice of the  
commen bench by y<sup>e</sup> cou-  
sell and assent of all the  
Justices vsethe as ofte as  
he thinketh good to chose  
vii. or viii. of the discreet-  
test persones, that in the  
foresaide generall studie  
haue most profited in the  
lawes, and whiche to the  
same Justices are thought  
to bee of best disposition,  
and their names hee pre-  
senteth to the lord Chan-  
cellour of Englande in  
writtinge. Who in con-  
tinent by vertue of the  
kinges write shal charge  
euery of the ysons elect to  
be beefore the kinge at a  
daye by hym assigned,

entis ad legē ap-  
pellatur. Et cōfer-  
tur sub hac q̄ sub-  
sequitur forma.

Capitalis Iusticia-  
rius de cōi banco,  
de cōsilio et assēsu  
oīm iusticiariorū,  
eligere solet quo-  
tiēs sibi videtur o-  
portunū, septē vel  
octo de maturiori  
bus psonis qui in  
p̄dicto genali stu-  
dio maius in legi-  
bus proficerūt, &  
qui eisdē iusticiar<sup>o</sup>  
optime dispositio-  
nis esse vidētur, et  
nomina eorū ille  
deliberare solet  
Cācellario anglie  
in scriptis, qui illi-  
co mādabit p bre-  
uia regiscuillz elec-  
torū illorū, qd. sit  
corā rege ad diē p  
ipsum assignatum



Fortescue, in commendacion

ad suscipiendū statum et gradū seruientis ad legē, sub ingēti pena ī quolibet breuiū predictorū limitata: ad quē diē quilibz eorum cōparēs, iurabitur (sup s̄cta dei euāgelia) fore paratum, ad diē et locū tunc sibi statuēdos, ad recipiēdum statū & gradum predictos, et qd' ipse in die illo dabit aurum secūdum cōsuetudinē regni in hoc casu vsitatā. Tñ qualiter ad diē illum quilibet elector' predictor' se habeb. nec nō formā et modū qualiter stat' & gradus hūoi cōferēt' et recipiuntur, hic inferere omitto:

too take vppon him the state and degree of a seruaunt at lawe, vnder a greate penaltie in euerye of the said wittes limited. On the whiche daye euery one of them appearing shalbe swozne vpon the holye gospell of God to be ready at the daye & place then to bee appointed to receaue the state and degree aforesaide, and that he the same daye shall geue golde accordinge to the custome in that behalfe vsed.

Howe bee it holwe and after what sorte euerye of the saide chosen persones shall that daye demean himselfe, and also the fourme and maner holwe that state & degree shalbee geuen & receued, for

of the lawes of England. Fo. 113

for so muche as the same  
can not so briefely be  
written as to the short-  
nes of this booke is re-  
quisite, therefore at this  
tyme, I will leaue these  
pointes vntouched. And  
yet I haue declared the  
same to you ere now by  
waie of talke. But thus  
you must vnderstande,  
that when the day appoi-  
nted is come, those electe  
persons among other so-  
lemnities must keepe a  
greate dinner, like to the  
feast of a kinges corona-  
tion, which shal continue  
e last by the space of seuen  
daies. And none of those  
elect persons shal defraye  
the charges growinge to  
him about the costes of this  
solempnitie with lesse ex-  
penses then the summe  
of foure hundred marks

cum scripturam  
maiores illa exi-  
gant, quam con-  
gruit operi tam  
succincto. Tibi ta-  
men ore tenus ea  
alias explicaui.  
Scire tamen te cu-  
pio, quod aduenien-  
te die sic statuto,  
electi illi inter ali-  
as solempnitates  
festum celebrant  
et conuiuium, ad  
instar coronatio-  
nis regis, quod et  
continuabitur per  
dies septem, nec  
quisquam electo-  
rum illorum sup-  
tus sibi contingen-  
tes circa solempni-  
tatem creationis  
sue, minoribus ex-  
pensis perficiet,  
quam mille et sex  
centorum scutorum  
quo



## Fortescue, in commendacion

quo expensę quas  
ocho sic electi tūc  
refūdēt, excedent  
sumā. 3200. marc.  
quarū expēsarū ps  
qdā inter cetera,  
hec erit. Quilibet  
eorū dabit anulos  
de auro ad valētiā  
in toto quadragi-  
ta librar' (ad min<sup>a</sup>)  
monetę Anglican  
et bene recolit Cā  
cellarius ipse, qd'  
dū ille statum &  
gradū hūoi rece-  
perat, ipse soluit p  
anulis quos tūc di-  
stribuit, quinquā-  
ginta libras, q̄ sūt  
300. scuta. Solet  
nāq; vnusquisque  
seruientū hūoi tē-  
pore creacōis sue,  
dare cuilz p̄cipi,  
duci, et archiep̄o ī  
solēnitate illa pre-  
fēti, ac Cācellar' et  
Thesa. ang. anulū

So that y expēses whiche  
viii. menne so electe shall  
then beestowe will sur-  
mount the summe of thye  
thousande and two hun-  
dredeth marks. Of y which  
expenses one parcel shall  
bee this. Euery of them  
shal geue ringes of golde  
to y value of xl. poundes  
sterling at the least. And  
your Chauncellour well  
remēbze the that at what  
tyme hee receaued this  
state and degree, y ringes  
which he then gaue stode  
him in fifty poundes.

For euery suche serteant  
at the tyme of hys crea-  
cion vseth to geue vnto  
euery Prince, Duke, and  
archebishop being p̄fēt  
at that solempnitie, and  
to the lord Chauncellour  
and Lorde Treasourer  
of Englande a ringe of  
the

of the lawes of England. Fo. 119

the value of xxvi. shillings  
vi. d. And to every earle  
and bishop beinge like-  
wise present, and also to  
the Lorde pryncesse seale, to  
both h<sup>e</sup> lordes chief Justices,  
& to the Lorde chiefe  
baron of the kinges exchequer  
a ringe of the value  
of xx. s. And to every lord  
baron of the parliament  
& to every abbot, & notable  
prelate, & worshipfull  
knight being then present,  
& also to h<sup>e</sup> maister of the  
roles, & to every Justice a  
ring of h<sup>e</sup> value of a mark  
And likewise to every baron  
of h<sup>e</sup> exchequer, to the  
chamberlaines, and to  
all the officers, and notable  
menne servinge in  
the kinges courtes, ringes  
of a smaller pryce,  
but agreeable to theire estates  
to whome they are

ad valorē 26. s. 8. denar', et cuilibet comiti et epō cōsili-  
militer presentibus, nec nō custodi pri-  
uati sigilli, vtrique capitali iusticiario  
et capitali baroni de scaccario regis  
anulū ad valorē 20. s. et of dñō baroni  
pliamēti, et of abbati et notabili  
prelato ac magno militi, tūc p̄sēti, cu-  
stodi etiā rotul' cācellarię regis &  
cuilibet iusticiario anulū ad valen-  
ciā 1. marcē. Similiter et of bar' de scacc'  
regis, camerariis, etiā oībus officiē et  
notabilib<sup>9</sup> yiris incur' regis mīstrati-  
b<sup>9</sup>, anulos minor' p̄cij, cōueniētes tñ  
statibus eorū q̄b<sup>9</sup>



## Fortescue, in commendacion

donatur. Ita quod non erit clericus, maximè i curia cōmunis bāci, licet i-fimus, quin anulū ipse recipiet cōueniētē gradui suo. Et vltra hos ipsi dant anulos non-nullos, aliis amicis suis. Similiter et liberatā magnā pā-ri vni<sup>o</sup> secte, quā ipsi tunc distribu-ent in magna abū-dātia, nedum fa-miliarib<sup>o</sup> suis, sed et amicis aliis et notis, qui eis attē-dēt et ministrabūt tēpore solēnitatis predictē. Quare licet in vniuersita-tibus in gradum doctorat<sup>o</sup> erecti, expensas non mo-dicas faciant tēp-

geuen. Insomuch y there shall not bee a clerke, spe-ciallye in the court of the commen-benche, but hee shal receaue a ring cōue-nient for his degree. And besydes these they geue dyuers rynges too other of theire fryndes. They geue also luettes of cloth of one sute or colour in greate abundaunce not onelye to theire houshold meanye, but also to theire other fryndes and ac-quaintaunce, whiche du-rynge the tyme of the foresayde solempnytye shall attende and wayte vppon them.

Wherfore though in the vniuersities they that are promoted too the de-gree of Doctors do sustai-ne small charges at the tyme of their cōmēcemēt,

as

as in geuige of bonnetes  
and other ryche gyses,  
yet he geue no gold: nor  
do bestowe any other  
gistes or costes lyke vnto  
these expenses. Neither  
any countrey of the world  
is there any special degre  
geuen in the lawes of the  
sae lade, but onely in the  
royalme of Englande. Nei  
ther is there any man of  
lawe throughe out the  
vniuersall world, whiche  
by reaso of his office or  
profession gayneth so much  
as one of these seruaunts.  
No man also be he neuer  
so conynge & skylfull in  
the lawes of the royalme  
shalbe exalted to h office  
and dignitie of a Justice  
in the courte of pleas be  
fore the kinge or i h courte

R. l.

creacionis sue, ac  
bitreta, alia quoq;  
donaria qua bona  
eroget: no tamen  
autu ipsi conferunt  
aut alia donaria  
suptusue faciunt,  
his expensis similia.  
Neq; in regno ali  
quo orbis terraru  
datur gradus spe  
cialis in legib; reg  
ni illi, pterqua so  
lu i regno Anglie  
Nec est advocat  
in vniuso mudo,  
q; ratione officii  
sui tatu lucratur  
vt seruiens huius  
modi. Null; ecia,  
licet in legib; reg  
ni illius scientissi  
m; fuerit, assume  
tur ad officium et  
dignitate iusticia  
rii i curiis placito  
ru cora ipso rege  
et



**¶** **Portescue** in commendacion  
 et comunis banci of the tothe bench, which  
 que sunt supreme are the chiefe ordinarie  
 cause eiusdem regni courtes of the same roye  
 ordinarie, nisi ipse alme, onles he be first p  
 primitus statu et moted to the state and de  
 gradu seruietis ad gree of a seruaunt at law.  
 lege fuerit insigni **¶** Neither shall any man  
 tus. Nec quisqua but onely such a seruaunt  
 preterqua seruietis pleade in the courte of h  
 talis i curia comu commen benche, where  
 nis banci, vbi om all reall actions are plea  
 nia realia placita ded.  
 placitantur placi **¶** Wherefore to this  
 tabit. Quare ad state and degree hath no  
 statum et gradu man bene hether to admis  
 tale, nullus hucus ted, except he haue first co  
 q; assumptus est, qui tinued by the space of xij  
 non in p'dicto ge peares in the said gene  
 nerali legis stu ral studie of h lawe. And  
 dio, sexdecim an in token of signe that all  
 nos ad minus an Justices ar thus graduat  
 tea copleuit et in euery of them alwayes  
 signum qd ones whyle he sitteth i h kiges  
 iusticiarii illitalit courtes, weareth a white  
 extat graduati, q quoyse of silke: whiche is  
 libet eoru sep vti the  
 tur dum in curiis  
 regis sedet, birreto

of the lawes of England. Fo. 121

the p<sup>r</sup>incipall and chief in  
signemet of habite where  
with seriauntes at lawe  
in their creation are dec-  
ked. And neither the Jus-  
tice, nor yet the seriaunt  
shal euer put of y<sup>e</sup> quoyse  
no not in the kynges pre-  
sence, though he be in  
talke with his maiesties  
highnes. Wherefore, most  
noble p<sup>r</sup>ince, you can not  
hereafter doubt, but that  
these lawes, which so sin-  
gularly aboue the Ciuile  
lawes, yea and aboue the  
lawes of all other roy-  
almes are honoured, and  
with so solempne a state  
of such as are learned  
therein, and do professe y<sup>e</sup>  
sae are worshipped must  
needes be p<sup>r</sup>ecio<sup>s</sup>, noble  
and highe, and of greate  
excellencie, and of speciall  
knowledge and vertue.

¶ ii.

albo de serico. qd  
p<sup>r</sup>imu et p<sup>r</sup>incipu e  
de isign habit quo  
seruiet ad lege in  
eoru creacione de-  
corat. Nec birret  
illud iusticiari<sup>9</sup>, si-  
cut nec seruiet ad  
lege vnqua depo-  
net, quo caput su  
u i toto discoope-  
riet, etia i pset reg-  
lic cu celsitudinu  
a ipe loquat. Qua-  
re princeps pclaris-  
sim tu amodo hesi-  
tar no pot is, quin  
leges iste q ta singu-  
larit sup ciuiles  
leges leges etia o-  
niu alioru regno-  
ru honerat et tam  
solepni statu eru-  
ditoru et ministrat-  
iu i eis venerat p-  
cioso sit nobiles et  
sublimes, ac magni  
pstatie, maximeq  
sciencie et virtutis



Fortescue, in commendacion  
After what maner a Iustice is created, and of his  
habite and conuersation. Cap. 51

**S**Ed vt Iusticiari  
orū (sicut et ser  
uiētū ad legē) sta  
t<sup>o</sup> tibi innotescat,  
eorū formā offici  
ūq; (vt potero) iā  
discribā. Solēt nā  
que in comuni bā  
cō quinq; iusticia  
riū esse vel sex ad  
maius. Et in bāco  
regis quatuor vel  
quinq; ac quociēs  
eorum aliquis per  
mortē vel aliter  
cessauerit, rex de  
aduifamento con  
siliū sui eligere so  
let vnū de seruiē  
tibus ad legem, et  
eū p litteras suas  
patētes constitue  
re in iusticiariū lo  
co iudicis sic cessā  
tis et tunc cancel

**B**Ut to the intent the  
state of Iustices as  
well as of seriauntes at  
la we maye be knowen to  
your grace, as I cā I wil  
describe vnto you their  
fourme and office. In the  
commen bēche there are  
custumable v. Iustices oꝝ  
vi. at the most. And in the  
kynges benche. iiii. oꝝ v.  
And as ofte as the place  
of any of them by deathe  
oꝝ otherwyle is voyde, þ  
kyng vseth to choole one  
of the seriauntes at la we  
and him by his letters pa  
tents to ordeine a Justice  
in the place of the iudge  
so ceassynge. And thē the  
loꝝde Chauncellor of En  
gland

gland shall enter into y<sup>e</sup> courte where the Justice is so lackynge, byngyng with him those letters patents, and sittynge in y<sup>e</sup> myddes of the Justices, causeth the seriaūt so elect to be brought in, to whō in the open courte he notifyeth the kynges pleasure touchyngc the office of the iustice then voyd and causeth the foresaid letters to be openly read. Whiche dōe the maister of the rolles shall reade befoze the same elect person the othe that he shall take. Which whē he hath sworne vpon the holy gospel of god, the lord Chauncellour shall deliuer vnto him the kynges letters aforesaid. And the lord chiefe Justice of y<sup>e</sup> courte shall assine vnto him a

¶.iii.

larius Angliæ adhibet curiā vbi iustitiar<sup>9</sup> sic deest, differēs secū litteras illas, ac sedens in medio iusticiario-  
rū introduci facit seruientē sic electū, cui in plena curia ipse notificabit volūtātē regis de officio iudiciario sic vacante, et legi faciet ī publico litteras p̄dictas. Quo facto, custos rotulorum cācelarię regis leget corā eodē electo iusiurādū qd ipse factur<sup>9</sup> est, qd et cū super sctā dei Euāgelia ipse iurauerit, cācellari<sup>9</sup> sibi tradet litteras regis predictas, et capitalis iusticiarius curię illi<sup>9</sup> assign-



## Fortescue, in commendacion

nabit sibi locū ī e  
adē, vbi deiceps il  
le sedebit, et mox  
eū sedere faciet ī  
eodē. Sciēdum ta  
mē tibi ē Princeps  
qd Iusticiari⁹ iste  
int' cetera tūc iu  
rabit: se iustitiā mi  
nistraturū īdiffe  
rēt' ōnib⁹ homini  
b⁹ corā eo placi  
tātib⁹, īimicis et a  
micis, nec sic face  
re differet, etiam si  
rex per litteras su  
as aut ore ten⁹ cō  
trariū iusserit. Iu  
rabit etiam quod  
extunc non reci  
piet ipse ab aliquo  
preterquā a rege,  
feodū aut pencio  
nem aliquam seu  
liberatam, neque  
donum capiet ab  
habente placitum  
coram eo, preter  
quam esculenta

place in the same, where  
he shall then place him: &  
that place shall he after  
ward kepe. Yet you must  
knowe, most noble pꝛice,  
that this Justice shall the  
amonge other thinges  
swear, that he shal indif  
ferently minister iustice  
to all men aswell foes as  
frendes, that shall haue  
any sute or plea before hī  
And this shal he not for  
bearc to do though he the  
kinge by his letters, or by  
expresse worde of mouth  
woulde commaunde the  
contrarie. He shall also  
swear that from that  
tyme forwarde he shall  
not receaue or take any  
fee or pension, or lyeuerie  
of any mā, but of y<sup>e</sup> king  
onely nor any gyfte, re  
ward or brybe of any mā  
hauing sute or plea before  
him

him, sauyng meate and  
 dyette. which shalbe of no  
 great value. You shall al  
 so knowe that a Justice  
 thus made shal not be at  
 the charges of any dincr,  
 or solempnitie, or anye o  
 the costes at the tye whe  
 he taketh vpo him his of  
 fice & dignitie, forsomuch  
 as this is no degree in h  
 facultes of the lawe, but  
 an office onely & a rowm  
 of autoritie to continue du  
 ringe the kynges pleasur  
 whome best the habit of  
 his raimēt he shall from  
 tyme to tyme forwarde in  
 some poyntes chaunge,  
 but not in all the ensigne  
 ments thereof. For beige  
 a seruant at lawe he was  
 clothed in a longe robe  
 priestlyke, with a furred  
 cape about his shoulders,  
 & therupon a hooode with

¶ Illi.

et poculēta, q̄ nō  
 magni erāt preci  
 Sciendū etiā tibi  
 est, qd Iusticiarius  
 sic creatus, eōiū  
 um solēpnitate  
 aut sūpt<sup>9</sup> aliquot  
 non faciet, tēpore  
 susceptionis offi  
 cii et dignitatis  
 sue, cū nō sint illi  
 grad<sup>9</sup> aliqui in fa  
 cultate legis, sed  
 officiū solū illa sit  
 & magistrat<sup>9</sup>, ad  
 regis nutū duratū  
 ra, habitū tñ in dē  
 mētū sui (i q̄busd<sup>9</sup>)  
 ipse ex tunc mu  
 tabit, sed non in  
 oib<sup>9</sup> insignis ei<sup>9</sup>  
 Nā seruens ad le  
 gē ipse existēs, ro  
 ba lōga, ad instar  
 sacerdotis, cū ca  
 plicio penulato cir  
 ca humeros deus  
 et desup collobio,  
 cū duob<sup>9</sup> labelul<sup>9</sup>



**Fortescue, in commendacion**

qualiter vti solēt  
doctores legū in  
vniūsitatib⁹ qui-  
busdā, cum supra  
discripto birreto  
vestiebatur. Sed  
Iusticiari⁹ factus,  
loco collobii cla-  
mide induetur, fir-  
mata super hume-  
rū ei⁹ dexterū, ce-  
teris ornamentis  
seruiētis, adhuc  
permanētib⁹, ex-  
cepto qd stragu-  
lata veste, aut co-  
loris depertiti vt  
potest seruiēs ius-  
ticiari⁹ nō vtetur  
et capiciū ei⁹ non  
alio quā meneue-  
ro penulatur. Ca-  
piciū tñ seruiē-  
tis pellib⁹ agnitis  
semper albis im-  
plicatur, qualē ha-  
bitū te pl⁹ ornare  
optarē, cū potes-

ti. labels such as doctours  
of the lawes vse to weare  
in certen vniuersities, in  
the aboue discribed quolise  
But beinge ones made a  
Justice, i stede of his hood  
he shal weare a cloke clo-  
sed vpon his right shoul-  
der, all y other ornāmēts  
of a seriaunt still remai-  
ning: sauinge that a Jus-  
tice shal weare no partie  
coloured vesture as a ser-  
iaunt maye. And his cape  
is furred with none other  
then meneuer, whereas  
the seriauntes cape is e-  
uer furred w white labe.  
And this habite I would  
wishe your grace to brig  
into hiegh estimation,  
when it shalbe i your po-  
wer, for the worshippinge of  
the state of the lawe, & y  
honour of your royallme  
thus accord a no further

Furthermoze I woulde  
ye shoulde know that the  
Iustices of England sitt  
not in the kinges courtes  
aboue iii. houres in a day,  
that is to saye, from viii.  
of the clock in y<sup>e</sup> forenone  
till vi. complete, For in y<sup>e</sup>  
afternoones those courtes  
are not holde n<sup>or</sup> kepte.

But the Iurers then re-  
sort to y<sup>e</sup> puling of their  
w<sup>it</sup>tinges and elswhere  
consulting with the Ser-  
sautes at lawe and o-  
ther their counsaillours  
Wherefore the Iustices  
after they haue taken  
their refectiō, doo passe  
and bestowe all the resi-  
due of the daye in the stu-  
dy of the lawes, in rea-  
dyng of holye scriptur,  
and vsyng other kynde  
of contemplaciō at their  
pleasure. So that their

tas tibi fuerit, ad  
decorē status legis  
et honorem regni  
tui. Scire te etiam  
cupio qd' iusticia-  
rii anglie nō sedēti  
curiis regis nisi per  
tres horas in die, s.  
ab hora viii. ante  
meridiē, vsq; horā  
xi. cōpletam, quia  
post meridiē curie  
ille non tenentur.

Sed placitātes tūc  
se diuertunt ad p-  
uisū et alibi, cōsu-  
lētēs cū seruiēti-  
bus ad legē et aliis  
cōsiliar' suis. Qua-  
re iusticiarij post-  
quā se refecerint  
totū diei residuū  
p<sup>re</sup>sētē studēdo  
in legibus, sacram  
legēdo scripturā,  
et aliter ad eorū li-  
bitū cōtēplādo, vt

oile onpūsb ān  
ingamiod ures



Fortescue, in commendacion

vita ipsorū pl<sup>9</sup> cō lyfe may seeme moze con-  
templatiua videatur quā actiua. Sic And thus do they leade a  
q; quietā illi vitā a quiete lyfe discharged of  
gūt, ab ol sollicitu al woꝝdly cares and trou-  
cine et mundi tur bles. And it hath neuer  
binib<sup>9</sup> semotam: bene knowen that ani of  
nec vnquā cōptū them hathe bene corrupt  
ē eorū aliquē, do- with gyftes oꝝ bꝛybes.  
nis aut munerib<sup>9</sup> Inhereupō we haue sene  
fuisse corrupti. Vn this kynde of grace solo-  
de et hoc genus wyngē, that skante anye  
gratię vidim<sup>9</sup> sub of them dyethe without  
secutū, qd vix co- yllue. which vnto iust mē  
rū aliq̄s sine exitu is a token of the great &  
decedat, qd iustis pecoliar blessinge of god  
magñ et quasi ap And in myne opiniō it is  
ppriate benedic- to be iudged foꝝ no small  
tionis dei est, mi- poynte of the bountefull  
hi quoq; nō mini- goodnes of god, that out  
mi muneris diui- of the generation of And  
ni censetur esse ges there haue hetherco  
pēsād, qd ex iudi- spronge vp mo states &  
cū sobole, plures peares of the royaume thē  
de proceribus et out of any other state of  
magnatib<sup>9</sup> regni mē. which by their owne  
hucusq; p̄dierūt, wyttē & policie haue aspi-  
quā dealiquo alio  
statu hoīm regni,

red vnto great wealth,  
nobilitie, & honour & ea  
thoughe the state of mer  
chautes surmount the  
nūber of Iudges by ma  
ny thousands beinge men  
of suche singular wealth  
that amonge them com  
mely ther be such, as one  
of the in riches passeth all  
the Iustices of y<sup>e</sup> royalme  
For this cannot be ascri  
bed vnto fortune, which  
is nothyng. But it is to  
be attributed (as I take  
it) onely to the blessinge  
of god. For somuche as  
by his prophete hee saith  
y<sup>e</sup> the generatiō of righ  
teous men shalbe blessed  
And the prophete in an o  
ther place speakig of iust  
men, saith y<sup>e</sup> theire chil  
dren shalbe in blessinge.  
Wherefore o most magni  
ficēt prince be you in loue  
w<sup>th</sup> iustice, which thus cri  
beth, exalteth to honour

q<sup>d</sup> se prudētia et in  
dustria p<sup>p</sup>ria opu  
lētos, inclitos, no  
bilesque fecerunt  
Quāquā mercato  
rū stat<sup>9</sup>, quorū ali  
qui sūt, q<sup>d</sup> oīb<sup>9</sup> iu  
sticiariis regni p<sup>p</sup>  
tāt i diuitiis iudiciū  
numerū in mili  
b<sup>9</sup> hoīm excedat.  
Nā fortune q<sup>d</sup> ni  
hil est, istud ascri  
bi nō poterit: sed  
diuinę solū bene  
dictioni fore arbi  
tror tribuēd. Cū  
ipse p<sup>p</sup>phetā di  
cat: qd generatio  
rektorū benedic  
tur. Et alibi de ius  
tis loquēs p<sup>p</sup>l eta  
ait: qd filii eorum  
in benedictione e  
rūt. Dilige igitur,  
(fili regis) iusticiā  
quę sic ditat, co  
lit, et p<sup>p</sup>etuat set<sup>9</sup>



**Fortescue, in commendacion**

colentium eā. Et and anaunceth to perpe-  
zelator esto legis tuite the childzen of them  
que iustitiam pa- that haue her in venerati  
rit, vt a te dicatur on. And be you a zelous  
qd a iustis scribi- louer of the lawe, the be-  
tur: et semen eo- rie wellspzige of Justice,  
rum ineternū ma y by you it may be sayed  
nebit. y is wztte of y righteous

And their seede shall re-  
mayne for euer.

*The prince findeth fault with delays that are  
made in the kinges courtes. Cap. 52.*

**Princeps.** Vnum **T**here remayneth now  
iā solum super but one thyng good  
est Cācellarie de- Chauntellour, quod the  
clarādum: quo pa plice to be declared, wher  
rump adhuc fluc with my mynde sōewhat  
tuat, inq̄etat quo- yet wauereth and is dis-  
q; mens mea. In queted, wher i if you stay  
quo si eā solidane and satisfie me, I wyll  
ris, nō āpli<sup>9</sup> te q̄s- trouble you with no mo  
tionib<sup>9</sup> fatigabo. questions. The lawes of  
Dilationes ingen England, as the reporte  
tes, vt asseritur, pa goeth suffer great delaes  
tiantur leges An- in  
glia in p̄cessibus

their pprocesses, more then  
the lawes of other nati-  
ons. which vnto sufers is  
not onely a hinderance  
of their right, but also ma-  
ny tymes an importable  
burden of charges, & chief-  
ly in those actions, wherē  
damages are not allowed

suis plusquā leges  
aliarū nationum,  
qd petētib⁹, nedū  
iuris sui p̄gatio ē,  
sed et sumptuum  
quādoquidem im-  
portabile on⁹, et  
maxime in actio-  
nib⁹ illis in quib⁹  
damna petētib⁹  
nō redduntur.

*Delaies that happen in the Kynge's courties are ne-  
cessarie and reasonable. Ca. 53.*

**I**n actions personall,  
quod the Chauncellour,  
out of Cities & townes of  
merchandise where the  
maner of p̄cedynge is  
acordynge to the customz  
and liberties of the same  
there the p̄cedinges are  
ordinarie. And thoughē  
they suffer great delaies,  
yet they be not excessive.  
But in the same Cities  
and townes, chiefely whē

**C**ancellari⁹. In  
actionib⁹ per-  
sonalib⁹ extra vr-  
bes & villas mer-  
catores, vbi p̄ce-  
ditur secundū cō-  
suetudines et li-  
bertates earundē  
p̄cess⁹ sunt or-  
dinarii. Et quātal-  
libet dilationes  
paciuntur, non ta-  
men excessiuas.  
In vrbib⁹ vero et



## Fortescue, in commendacion

villis illis potissimū  
cū vrgēs causa de  
poscat, celeris, vt  
in aliis mūdi ptib⁹  
fit, pcess⁹ nec ta-  
mē (vt alibi) ipsi  
nimiū aliquando  
festināt, quo sub-  
sequitur ptis lesio  
Rurs⁹ in realib⁹  
actionib⁹, in ōni-  
b⁹ fere mūdi ptib⁹  
b⁹ morosi sunt, p-  
cess⁹. Sed ī Angli-  
a quodamodo ce-  
leriores. Sūt quip-  
pe ī regno Frācie,  
in curia itid' sup-  
ma, q̄ cur' pliamēti  
vocatatur, pcess⁹  
quidā, q̄ in ea plus  
quā triginta ānis  
pepēderūt. Et no-  
ui ego appellatio-  
nis causā vnā, q̄ in  
curia illa, agita-  
ta fuit, iam p decē  
ānos suspēsa fuil-  
se, et adhuc veri-

any vrgent cause so requi-  
reth, there is quicke dis-  
patche made, lyke as in a-  
ther partes of the world  
and yet not w̄ suche hote-  
bait as in some other pla-  
ces, that the ptye be there  
by endammaged. Agaie  
in actions real the proce-  
dynges are verie slowe al-  
most in all partes of the  
wo:ld. For within the  
royalme of Fraunce in y  
hieghest court ther, which  
is called the court of par-  
liamēt, there be certei pro-  
cesses y haue hāged there  
aboue xxx. yeares. And I  
knowe that a cause of ap-  
peale, which in that court  
betwene Richard Herd  
an Englishe merchaunt  
& other merchaunt mē for  
a trasgression made hath  
ben debated withi the iu-  
risdiction of that courte,  
hath

of the lawes of Englande Fo. 127

hathe alreedy haged by y  
space of r. yeares. And it  
is not yet lyke that it can  
be decided within other r.  
yeares. Whyte I was  
lately abydyng in Paris  
myne hoste shewed me  
his processe in wyldyng,  
which in the court of par-  
liament there he had the  
solved full viii. yeares  
for iiii. s. rete, which I our  
monei maketh not abone  
viii. d. and yet he was in  
hope to obteyne iudgmet  
in. viii. yeares more. And  
I knowe other cases ther  
lyke vnto these So that  
the lawes of Englād, as  
seemeth to me, cause not  
so greāt delays as do y  
lawes of that countrey.  
But to speake vppright-  
ly, it is necessarie that  
delays be had in the  
processe of all actions

simile nō ē, eā ifra  
ānos decem alios  
posse discidi. ostē  
dit et mihi dudū  
dū Parisiis mora  
bar hospes me? p  
cessū suū in scrip-  
tis, quē i curia pli  
amti ibidē ipse tūc  
octo ānis p qua-  
tuor solidatis red-  
dit⁹, q de pecunia  
nostr viii. d. nō ex-  
cedūt, psecut⁹ est,  
nec sperauit se in  
octo annis aliis iu-  
ditium inde optē-  
turū. Alios quo-  
q; nōnullos noui  
cas⁹ ibidē, his simi-  
les, sic qd leg. An-  
glie nō tantas, vt  
mihi visū ē, dilati-  
ones sortiūt vt fa-  
ciūt leges regionis  
illi⁹. Sed reuā pne-  
cessariū ē dilatio-  
nis fieri i pcessib⁹  
oīm actionū, dū-



**Fortescue, in commendacion**

modo nimiū ipse  
non fuerit exces-  
siue. Nā sub illis,  
ptes et maxim ps  
rea, quā sepe sibi  
pudent de defē-  
sionib<sup>9</sup> vtilib<sup>9</sup>, si-  
militer et consiliis  
quib<sup>9</sup> alias ipsi ca-  
rerēt. Nec vnquā  
i iudiciis tātū imi-  
net periculū, quā  
tum parit pcess<sup>2</sup>  
festinat<sup>2</sup>. Vidi nē-  
pe quōdā apud ci-  
uitatem Sarū, co-  
rā iudice quodam  
ad gaolā ibidē de-  
liberādā, cum cle-  
rico suo assignato  
mulierem de mor-  
te mariti sui infra  
ānum ab interfec-  
tione ei<sup>9</sup> attrinctā  
similiter et cōbus-  
tā, in quo casu li-  
cuit iudici illi vsq;  
post ānum illum.

so that the same be not to  
much excessive. For by  
reaso thereof the parties  
and chiefely the parties de-  
fendant, do often tymes p-  
uide themselves of good  
defenses and also of coun-  
sels, which els they should  
lacke. And in iudgemēts  
there is neuer so greate  
daunger towarde as whē  
processe goeth forwarde  
with ouer muche haste.  
For I saue ones in the  
Citie of Salisburi before  
a certein iudge at a gaole  
delyuerie there with the  
clerk of the assyses, a wo-  
mā attainted & burned for  
the death of her husband  
within a yere after he  
was slaine. In the which  
case it was in the iudges  
pouer to haue repented  
or respected that womā

arraynement til the end  
of that yeare. And about a  
yeare after that I saw one  
of hys servants of the slaine  
man coult before hys same  
Justice of the death of the  
same his maister. Who  
then openly confessed, hys  
he himselfe alone slew his  
maister, and that his maist-  
res hys wyfe whiche be-  
fore was burned, was al-  
together innocent of hys  
death. And he for hys same  
was dyalven and hanged.  
And still euen at hys pointe  
of death he lamented the  
woman burned, as one cle-  
are from that offence. And  
what perplexitie & remo-  
se of conscience it is to bee  
thought that this so hasty  
a Justice hadde of thys  
deede which might iustly  
haue stayed the processe.  
He himselfe (alas) often

R. i.

arretamentū siue  
disfratio mulier  
illi<sup>9</sup> respectuasse et  
post annū illū vidi  
vnū de seruiētibus  
interfecti illi<sup>9</sup>, corā  
eodē iusticiario de  
morte eiusdē ma-  
gistri sui cōuictū, q̄  
tūc publice fateba-  
tur ip̄met solum  
magistrū suū occi-  
disse, et magistrā  
suā vxorē ei<sup>9</sup> tunc  
cōbustā inocētē q̄-  
nō fuisse de mor-  
te eius: quare ip̄se  
tract<sup>9</sup> et suspēs<sup>9</sup> fu-  
it. Sed tñ ōnō, etiā  
ī ip̄o mortis articu-  
lo mulierē cōbustā  
īmunē a crimie il-  
lo fuisse ip̄e luge-  
bat. O quale putā-  
dū ē ex hoc facto  
cōsciētię discrimē  
et remorsū euenis-  
se iusticiā illi tā p̄ci-  
piti, q̄ potuit p̄ces-



Fortescue, in commendacion

sum illū iuste re-  
tardasse. Sepi<sup>9</sup> ph  
dolor ipse michi fas-  
sus est, qd' nūquā  
in vita sua animū  
eius de hoc facto  
ipse purgaret: cre-  
bro etenī i delibe-  
rationib<sup>9</sup> iudic<sup>i</sup> ma-  
turescūt. Sed in ac-  
celerato processu  
nūquā. Quare le-  
ges Anglię essoniū  
admittunt, qualia  
nō faciūt leges alię  
mūdi vniuersi. Nō  
ne quā vtil' sūt vo-  
catiōes ad warran-  
tū. Auxilia de his  
ad quos spectat re-  
ūtio tenemētorū q̄  
i placitū deducūt  
et q̄ hēnt euidēti-  
as corūdē. Auxilia  
etiā de copticipib<sup>9</sup>  
q̄ reddēt p rata, si  
tenemēt cōpticipi  
allottatū euicatur

confessed vnto me that hee  
should neuer durynge his  
lyfe be hable to cleare hys  
conscience of this fact. For  
manye times in delibera-  
tiōs, iudgemēts growe to  
rieopenes, but in ouer hasty  
processe neuer. Wherfore  
the lawes of England ad-  
mit essoyne, and so do noe  
other lawes of al y<sup>e</sup> worlde  
Are not bouchinges to  
warrant right profitable  
Are not the aydes of them  
profitable, to whom the  
reuerſion of tenementes  
brought in plea belonge-  
the, and whiche haue the  
euidences of the same.  
Are not also the aydes of  
coperteners profitable whi-  
che shall paye accordinge  
to the rate of a tenemente  
allotted to their coptener  
by force of the law euicted  
from

from him. And yet al the  
se are delayes as you most  
noble prince by my talke  
at other times do wel kno  
we. And the like delayes  
to these do no other lawes  
admit. Neither do the la  
wes of Englande admyt  
tryeflinge and vnfruteful  
delayes. And if any suche  
sonde delayes shoulde be  
used they maye at euerie  
parliament be cut awaye  
yea and other lawes used  
in the same royaume, whē  
in any pointe theye bee  
gynne to halte theye  
maye at euerie parliamēt  
be reformed. Wherefore  
it maye well bee conclu  
ded, that all the lawes of  
that royaume are ryghte  
good either in dedde, or in  
possibilitie. So that if they  
bee not presentlye good,

et tamen hec, di  
lationes sūt: sicut  
tu princeps alias nos  
ti ex doctrina me  
a. Et dilationes his  
similes leges alię  
nō admittūt neq;  
leges Anglię friv  
las et infructuosas  
pmittunt inducias.  
Et si q̄ in regno il  
lo dilationes in pla  
citis min⁹ accomo  
de fuerint vlitatę  
in ōni parliamēto  
āputari illę possūt  
etiā et oēs leges a  
lię in regno illo v  
litatę cū in aliquo  
claudicauerint, in  
ōni parliamēto po  
terunt reformari.  
Quō rectē cōcludi  
potest, qd' omnes  
leges regni illius  
optime sunt, in  
actu vel potentia,  
R. ii. quo



Fortescue, in commendacion

quo faciliter in ac-  
tum duci poterūt  
et in essentiam re-  
alem. Ad quod fa-  
ciendum, quotiēs  
equitas id popos-  
cerit, singuli reges  
ibidem sacramen-  
to astringuntur so-  
lemniter prestito  
tempore receptio-  
nis diadematis sui.

they maye easlye be re-  
duced to the present per-  
fection of goodnes. To  
the perfourmaunce wher-  
of as ofte as egypte so re-  
quyrethe, euerye kynge  
there is bounde by an  
othe solempnely taken at  
the tyme of hys coro-  
nation.

*The lawes of England are right good, the know-  
ledge whereof is expedient for kynges. Yet it  
shall suffice the to haue but a su-  
perficiall knowledge of the  
same Cap. 54.*

**P** Rīcēps. Leges  
illas nedū bo-  
nas sed et optimas  
esse cācellarie, ex  
psecutiōe tua in  
hoc dialogo certis-  
sime dephēdi. Et si  
q̄ ex eis meliorari  
deposcant, id citis-  
sime fieri posse,

**I** haue wel & euidently p-  
reaved, quod h̄ prince, by  
h̄ pcesse of your talke good  
Chāucellour, h̄ those lawes  
are not onely good, but al-  
so of most perfecte & excel-  
lēt goodnes. And if any of  
thē haue neede to be amē-  
ded that may quicklye bee  
done as the fourmes and

orders of þ parliamentes  
there do plainly pꝛooue  
Wherfoze þ roialme is e-  
uer really oꝝ potentiallyc  
gouerned by most excellēt  
and most woꝛthie lawes.  
And I doubt not but that  
your instructions in thys  
our talke shalbee pꝛofita-  
ble foꝝ the kings of Eng-  
lande whiche hereafter  
shall bee: so that they ha-  
ue noe pleasure in gouer-  
nyng by vnpleasaunt la-  
wes. Foꝝ the vnhandsom-  
nes of the toole oꝝ instru-  
mente wericth the woꝛk,  
manne: and a blunte pike  
oꝝ a dulle sweoꝝde ma-  
kethe a cowardelye soul-  
diour. But like as a soul-  
diour is encouraged to  
fight not onely when hee  
hathe handsome and fitte  
weapons in a readynes,  
but also much moze when

parliamentorū ibi  
dem formulę nos  
erudiunt. Quo re-  
aliter potēcialiter-  
ue, regnum illud  
semper prestantis-  
simis legibus gu-  
bernatur, nec tuas  
in hac concionati-  
one doctrinas fu-  
turis Anglię regi-  
bus inutiles fore  
conijtio, dū nō di-  
lectet regere legi-  
bus quę non delec-  
tant. Fastidet nam-  
que artificem inep-  
tio instrumenti, et  
militem ignaum  
reddit debilitas lā-  
cię et mucronis.  
Sed sicut ad pug-  
nā animatur miles  
cū nedū sibi pꝛa-  
sit arma, sed et ma-  
gis cū in actib⁹ bel-  
licis ipse sit exptus,  
R. iii. dicē-



## Fortescue, in commendacion

dicente Vegetio de re militari: qd' sciencia rei bellicę dimicandi audaciam nutrit, Quia nemo facere metu it quod se bene didicisse confidit. Sic et rex omnis ad iustitiam animatur dum leges quibus ipsa fiet, nedum iustissimas esse agnoscit, sed et earum ille expertus sit formam et naturam, quas tantum in vniuersali, inclusiue, et inconfuso principi scire sufficiet, remanente suis iudicibus, earum discreta determinataq; peritia et sciencia altiori.

he is expert and skilfull in warlike actes, accordinge to the saying of Vegetius in his booke of chivalrie, & knowledge & connyng in martiall feats ministreth boldenes in fightinge (for no man feareth to do that whiche he trusteth hee hath well learned) in lyke maner euerie kinge hath a feruent zeale, & earnest desire to the maintenance of Justice, not only knowig the lawes, whereby he must be don, to be most iust, but also beinge skilful in the forme & nature of the same. Wherof it shal suffice the prince to haue onely an vniuersall, a superficial, & a confuse knoweledge, the discrete and determinate perfectnes, & deepe vnderstandinge of the same beinge left to his iudges.

So also oughte all princes to bee wel seene in the holve scriptures of god, as sayethe vincentius Beluacensis in his booke of the morall institution of princes. Forasmuche as the scripture aboue mentioned sayethe that bayne are all thepe in whom is not the knowledge of god and for that in the sixteen the chapter of the prouerbes it is thus witten. Let prophesye or the woorde of god be in the lypes of the kynge, and then his mouthe shall not go wroge in iudgement. And yet is not a kinge bounde to haue profounde knowledge, and determinate vnderstanding in y<sup>e</sup> holy scriptures, as it becommethe a professoure of dyuinitie.

Sic equidē et scripturarum diuinarū peritiā, vt dicit Vincentius Beluacensis in libro de morali institutione principum: Omnis princeps habere deberet cum dicat scriptura superius memorata: qd' vane sunt oēs in quibus nō est scientia dei, et puerbi. xvi. scribatur: Diuinitio, id est diuina sententia vel sermo diuinus, sit in labiis regis: et tunc in iuditio non errabit os eius. Non tamen profundē, determinatē intelligere tenetur Princeps scripturas sacras, vt decet sacre theologie p̄fessor.

**R. iiii.**

suffi.



## Fortescue, in commendacion

sufficit nāq; ei earū  
in cōfusō degusta  
re sententias, quali  
ter et peritiā legis  
suę. Sic et fecerūt  
Carolus Magnus,  
Lodouic⁹ filius e  
i⁹, et Robert⁹ quō  
dā rex Frācie, qui  
hanc scripsit seǵn  
tiā: Sācti spirit⁹ ad  
sit nobis gratia, et  
quā plures alij, vt  
i. xv. ca. lib. p̄dicti  
Vincentius p̄dict⁹  
luculenter docet.  
Vnde et doctores  
legū dicūt: qd' im  
perator gerit oīa  
iura sua in scrinio  
pectoris sui, nō q̄a  
oīa iura ip̄e nōscit  
realiter et in actu  
sed dū p̄cipia eo  
rū ip̄e p̄cepit, for  
mā similiter et na  
turā, oīa iura sua ip̄  
se itelliger' cēsetur

For it shalbe ynoughe for  
hi sup̄ficially to tast þ sen  
tēces therof, as also of his  
lawes. Thus did Charles  
the great, Lewis his son  
ne, and Robert sometime  
kinge of Fraunce whose  
wrote thys sequence.

*Sancti spiritus adsit nobis  
gratia:* and diuers other  
p̄inces, as the foresayde  
Vincentius in the fiftene  
the chapter of his booke  
also sayd plainly shewe  
the. Wherefore ȳ doctozs  
of ȳ lawes do say, ȳ an ē  
perour beareth al his la  
wes in ȳ box of his brest:  
not for ȳ he knoweth all ȳ  
lawes reallye & in deede,  
but for that he vnderstan  
deth the p̄inciples of the,  
lyke wise theire forme, &  
theire nature: in whiche  
respect he is iudged to bee  
skilfull in all hys lawes.

¶ whiche

of the lawes of Englande Fo. 132

Whiche also he maye alter, chaunge, and repeale. So that in him are potentially all his lawes, as Eve was in Adam before she was made. Butte now, good Chauncellour seeynge I perceave mye selfe sufficientely perswaded to the studie of the lawes of England, whiche thing in y<sup>e</sup> beginninge of this worke you promised to perfourme, I wil no longer trouble you in this behalfe. But thus I instantly desire you, y<sup>e</sup> ye wil instruct me in y<sup>e</sup> principles of y<sup>e</sup> law as you once began to doe And that you will teache me to knowe and vnderstande the fourm and nature thereof. For this lawe shall bee evermore peculiar to me amonge al other lawes of the worlde,

q<sup>uod</sup> etiā trāssformare ille potest, mutare et cassare quo I eo potēcialiter sūt ōnia iura sua, vt in A dā erat Eua antequā plasmaretur Sed quia Cācellarie, ad legū Anglię disciplinatū mihi iā conspicio sufficienter esse suafum, quod et in hui<sup>9</sup> operis exordio facere pmisisti: Nō te āplius huius p̄textu, sollicitare conabor, sed obnixē de posco, vt in legis huius principijs, vt quōdam incepisti, me erudias: docēs quodammodo eius agnoscere formā et naturam, quia lex ista mihi semp peculiaris erit iter ceteras leg<sup>9</sup> orbis,



### Fortescue, in commendacion

inter quas ipsa lu-  
cere cōspicio, vt lu-  
cifer inter stellas.  
Et dū intentioni  
tuę qua ad collati-  
onē hanc concita-  
tus es, iā satisfactū  
esse nō ābigō, tem-  
pus postulat et ra-  
tio, vt nostris col-  
loquiis terminū cō-  
feramus: reddētes  
ex eis laudes ei et  
gratias qui ea in-  
cepit, prosecut<sup>r</sup> est  
et finiuit, Alpha et  
O quē dicim<sup>r</sup>, quē  
et laudet ōnis spi-  
ritus Amen.

amonge the whiche I see  
it shene as lucifer amonge  
the stars. And so? so much  
as I doubt not, but youre  
intent, wherby you were  
moued to this conferencē  
is fully satisfi<sup>d</sup>: bothe ty-  
me and reason requirthe,  
that we make an ende of  
our talke, yeeldyng ther-  
fore laudes and thanks  
to him, whiche beganne,  
furthered, and hath fini-  
shed the same. Whom we  
call Alpha et O, who also  
be prayesd of euery ly-  
uinge creature. Amen.

*Finis.*

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